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MINISTER
FOREIGN AFFAIRS
REPUBLIC OF SOUTH AFRICA

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MINUTE

In accordance with the powers vested in me by section 5(3) of the Diplomatic Immunities and Privileges Act, 2001 (Act No. 37 of 2001), I hereby recognise the African Union Office of the African Peer Review Mechanism (APRM) for the purposes of granting the immunities and privileges as set out in the *Host Agreement between the Government of the Republic of South Africa and the African Union on an Interim Office for the APRM Operating Outside the African Union Headquarters*, attached as a Schedule hereto.

A handwritten signature in dark ink, appearing to read 'N.C. Dlamini Zuma'.

N.C. Dlamini Zuma
Minister of Foreign Affairs

Date: 9 October 2008



HOST AGREEMENT

BETWEEN

**THE GOVERNMENT OF THE REPUBLIC OF SOUTH
AFRICA**

AND

THE AFRICAN UNION

ON

**AN INTERIM AU OFFICE FOR THE APRM
OPERATING OUTSIDE THE AFRICAN UNION
HEADQUARTERS**

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The Government of the Republic of South Africa and the African Union (hereinafter jointly referred to as "the Parties" and in the singular as "a Party")

WHEREAS the decision on the Implementation of the New Partnership for Africa's Development (NEPAD) made at the Inaugural Session of the African Union Assembly in Durban, South Africa, from 8 to 10 July 2002 (Assembly/Decl. 1 (I)), mandated the Heads of State and Government Implementation Committee (HSGIC) and its supporting structures to ensure the implementation of the NEPAD Initial Action Plan and encouraged Member States to adopt the New Partnership for Africa's Development *Declaration on Democracy, Political, Economic and Corporate Governance* [AHG/235 (XXXVIII) Annex I] and accede to the *African Peer Review Mechanism* [AHG/235 (XXXVIII) Annex II];

AND WHEREAS the Heads of State and Government of the Member States of the African Union participating in the African Peer Review Mechanism concluded a Memorandum of Understanding on the African Peer Review Mechanism in 2003 which provided *inter alia* for the operationalisation of the African Peer Review Mechanism and provided that the Secretariat of the New Partnership for Africa's Development (NEPAD Secretariat) shall, in the interim, act as the Secretariat of the African Peer Review Mechanism until the latter is established;

AND WHEREAS the Assembly of the African Union has mandated the Chairperson of the Commission of the African Union, in consultation with the Chairperson of the HSGIC, to *inter alia* enter into a temporary host agreement with the Government of the Republic of South Africa with a view to providing the NEPAD Secretariat with a legal status of an African Union office operating outside the African Union Headquarters for an interim period of three (3) years, or until such time that the relevant structures of the African Union are fully operational, whichever comes first;

AND WHEREAS it is necessary to conclude a similar Agreement with respect of the hosting of the APRM Secretariat in the Republic of South Africa for an interim period of three (3) years, or such other period as agreed between the AU Commission and the Government;

NOW THEREFORE the Government of the Republic of South Africa and the African Union Commission have agreed as follows with regard to the transitional period pending determination of the nature and final structure of the AU APRM office:

ARTICLE 1

DEFINITIONS

For the purpose of this Agreement, the following terms and expressions shall have, unless the context otherwise requires, the following meanings:



- (a) "Appropriate Authorities" means such National or other Authorities in the Republic of South Africa as may be responsible in the context and in accordance with the laws and customs applicable in the Republic of South Africa;
- (b) "APRM" means the African Peer Review Mechanism established by the Assembly of Heads of State and Government of the African Union by the Decision Assembly/AU/Decl. 1(1) at the inaugural Summit of the African Union in July 2002, Durban, South Africa;
- (c) "AU" means the African Union established by the Constitutive Act of the African Union which entered into force on 26 May 2001;
- (d) "AU Office for the APRM" means the APRM Secretariat, tasked with the functions of liaison, coordination, administration and logistics related to the implementation of APRM;
- (e) "Chairperson" means the Chairperson of the Commission;
- (f) "Chief Executive Officer" means the Chairperson of the APR Panel of the APRM;
- (g) "Commission" means the Commission of the African Union;
- (h) "Department of Foreign Affairs" means the Department of Foreign Affairs of the Government of the Republic of South Africa;
- (i) "Experts" means persons, other than Officials, appointed to perform specific tasks on behalf of the AU Office for the APRM or to undertake missions or special projects on behalf of the AU Office for the APRM and includes members of the Panel of Eminent Persons (APR Panel) and Country Review Team (APR Team
- (j) "Government" means the Government of the Republic of South Africa;
- (k) "Officials" means members of staff of the AU Office for the APRM, with the exception of those persons who are recruited locally and assigned to hourly rates;
- (l) "Premises" means all the office, sub-offices, field offices, installations and facilities made available to be occupied, or used by the AU Office for the APRM;
- (m) "South Africa" means the Republic of South Africa and its territory.



ARTICLE 2 LEGAL PERSONALITY

1. An AU Office for the APRM is hereby established in the Republic of South Africa with the legal status of an AU Office operating outside the Headquarters of the AU.
2. The Government recognises the legal personality of the AU Office for the APRM for the purposes of:
 - (a) entering into contracts;
 - (b) acquiring and disposing of movable and immovable property; and
 - (c) receiving and instituting legal proceedings.
3. For the purposes of this Agreement, the Chief Executive Officer, or his or her duly designated representative shall represent the AU Office for the APRM.
4. All official business between the Government and the AU Office for the APRM shall be conducted through the Department of Foreign Affairs or such other Government Departments as may be agreed upon between the Government and the AU Office for the APRM.

ARTICLE 3 PREMISES AND FACILITIES

1. The Government shall provide, in accordance with the Criteria for Hosting AU organs, a secure, equipped and furnished permanent premises at its expense, for the AU Office for the APRM as its Headquarters, for use by the AU Office for the APRM and its personnel in accordance with this Agreement and Annexes thereto. The furniture and equipment shall be in accordance with the specifications of the African Union and as agreed by the Government.
2. Pending the provision of the permanent premises referred to in paragraph (1) above, the Government shall be responsible for the payment of rent and other incidentals for the current premises occupied by the AU Office for the APRM and located within the premises of the Development Bank of Southern Africa (DBSA). For the purposes of this Agreement, other incidentals shall include the facilities and services presently provided by DBSA to APRM, as agreed between the Parties and as provided for in an Annex to this Agreement.
3. The Government undertakes to assist the AU Office for the APRM, as far as possible, in obtaining and making available, where applicable, water, electricity, telephone, fax, internet and other facilities at rates or charges not less favourable