

No. 46873

**South Africa
and
Southern African Development Community**

Memorandum of Understanding between the Southern African Development Community and the Government of the Republic of South Africa concerning the implementation of Phase 2 of the SADC Hydrological Cycle Observing System (SADC-HYCOS): Consolidation and Expansion of SADC-HYCOS (with appendix). Gaborone, 21 October 2004 and Pretoria, 26 November 2004

Entry into force: *26 November 2004 by signature, in accordance with article 9*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *South Africa,
12 November 2009*

**Afrique du Sud
et
Communauté de développement de l'Afrique australe**

Mémorandum d'accord entre la Communauté de développement de l'Afrique australe et le Gouvernement de la République sud-africaine concernant l'exécution de la phase 2 du système d'observation des cycles hydrologiques de la SADC : Consolidation et expansion du SADC/HYCOS (avec annexe). Gaborone, 21 octobre 2004 et Pretoria, 26 novembre 2004

Entrée en vigueur : *26 novembre 2004 par signature, conformément à l'article 9*

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12 novembre 2009*

[ENGLISH TEXT – TEXTE ANGLAIS]

**MEMORANDUM OF UNDERSTANDING BETWEEN THE SOUTHERN AFRICAN
DEVELOPMENT COMMUNITY AND THE GOVERNMENT OF THE REPUBLIC OF
SOUTH AFRICA CONCERNING THE IMPLEMENTATION OF PHASE 2 OF THE
SADC HYDROLOGICAL CYCLE OBSERVING SYSTEM (SADC-HYCOS):
CONSOLIDATION AND EXPANSION OF SADC-HYCOS**

PREAMBLE

WHEREAS the and the Southern African Development Community (SADC) (hereinafter referred to as "SADC") and the Government of the Republic of South Africa (hereinafter referred to as "South Africa") (hereinafter jointly referred to as "the Parties", and in the singular as a "Party");

RECALLING the decision by the SADC Committee of Ministers of Water of August 2002, endorsed by the SADC Council of Ministers in its meeting in October 2002, which appointed the Department of Water Affairs and Forestry ("DWAF") of South Africa as the Implementing Agency for Phase 2 of the SADC-HYCOS Project: Consolidation and Expansion of the SADC-HYCOS (hereinafter referred to as "the Project");

CONSIDERING that the Project shall benefit the SADC region as a whole;

MINDFUL that the Government of the Netherlands (hereinafter referred to as "the Netherlands") and the European Commission (hereinafter referred to as the "EC") shall provide the financial assistance for the implementation of the Project;

MINDFUL that the participating Member States shall provide contributions from their local budgets for the implementation of the Project;

CONSCIOUS thereof that the preparedness for the provision of financial assistance for the implementation of the Project by the Netherlands and the EC is done in terms of separate financial agreement(s); and

DESIRING to enter into this Memorandum of Understanding (hereinafter referred to as the "MoU", which is to set forth the roles and responsibilities of the Parties in relation to the implementation of the Project;

HEREBY AGREE as follows:

**ARTICLE 1
PURPOSE OF MoU**

The main purpose of this MoU is to formalize the relationship between, and obligations of, the Parties pertaining to the implementation of the Project.

**ARTICLE 2
DURATION OF THE PROJECT**

Under this MoU, the Project shall have the duration of four (4) years, as from the date of commencement of this MoU.

**ARTICLE 3
OBLIGATIONS OF THE PARTIES**

1. With regard to the implementation of the Project, South Africa shall -
 - a) appoint the DWAF of South Africa as Implementing Agency for the project;
 - b) establish a Project Management Unit;
 - c) prepare draft implementation plans on the basis of the Project Implementation Document, as well as annual work plans for the entire project duration;
 - d) take responsibility for the Project Management Unit staff, and recruit the staff in accordance with the Project Implementation Document ;
 - e) ensure that the EC and Netherlands support to the programme shall be used in a transparent manner;
 - f) implement the Project as outlined in the Project Implementation Document and in the agreements listed in Appendix A hereto;
 - g) prepare a proposal for improvement of the hydrological network, to meet crucial identified needs at SADC regional level;
 - h) manage the tender process for the provision of services and procurement of equipment under the individual sub-projects;
 - i) manage contracts for the provision of services;
 - j) manage procurement of materials and equipment;
 - k) provide administrative control of the Project according to the provisions as set out in the agreements listed in Appendix A;
 - l) co-ordinate the Project with other water-related projects in the region;
 - m) monitor and report bi-annually to the Project Steering Committee on the progress of the project;
 - n) report all progress to SADC as may be required;
 - o) provide at least 100m² of office space for the Project Management Unit together with support and specialised services for both the Project Management Unit and Project Regional Centre to the Project.

2. With regard to the implementation of the Project, the SADC Secretariat shall:-
- a) seek Project funding, negotiate with the co-operating partners and sign agreements on behalf of SADC with the co-operating partners for the funding of the project;
 - b) facilitate and co-ordinate participation and contributions from participating countries;
 - c) co-ordinate and supervise the activities of the implementing agency to ensure timely submission of reports;
 - d) establish a Project Steering Committee;
 - e) organize, participate in and chair the Project Steering Committee meetings;
 - f) ensure that the EC and Netherlands support to the programme are given sufficient visibility;
 - g) urge Member States of SADC to commit sufficient manpower and financial resources to the National Hydrological Services of the respective Member States to ensure maintenance of the hydrological observation stations, validation and utilization of data;
 - h) report progress to the SADC institutions referred to in Article 9(1) of the Treaty of the Southern African Development Community as amended;
 - i) ensure that SADC decisions are reflected at the Project implementation level using the mechanism of the Project Steering Committee;
 - j) prepare letters of introduction to member countries which will assist members of the Project Management Unit and the Project Regional Center, to visit and implement the Project in the various countries;
 - k) facilitate the preparation of documentation for the importation of equipment by member countries;
 - l) approve annual work plans prepared by the Implementing Agency;
 - m) ensure that the project is implemented in line with the agreements listed in Appendix A.
 - n) from time to time, seek technical advice from the World Meteorological Organization (WMO), and for this purpose SADC shall enter into an agreement with the WMO; and
 - o) ensure that the project is implemented within the WMO framework for the World Hyco Programme.

ARTICLE 4 FINANCIAL OBLIGATIONS

1. With regard to the financing of the Project, SADC shall-
 - a) bear neither responsibility nor liability vis-à-vis any third party for projects or activities administered by South Africa and carried out pursuant to this MoU, but costs incurred due to such responsibilities and liabilities will form part of the costs of the Project;
 - b) arrange with the Netherlands that funds payable to the Project shall be transferred directly to the Special Fund dedicated to the Project in instalments according to requests for disbursements by the Implementing Agent, which requests are supported by the work plan. Funds made available for contingencies shall only be used for the Project if and insofar as prices, wages and salaries actually rise above the level of the original estimates and any other items agreed to by the Donors and SADC;
 - c) arrange for a financial audit agreed to by the EC and Governments of the Netherlands and South Africa;
 - d) may halt payment or demand repayment of all or part of the funds if contractual and/or reporting and accounting obligations are not met, or if it emerges that the funds are not being used or have not been used for the implementation of the Project as agreed; and
 - e) if South Africa, for any reason and not through any fault of its own has been able to implement only part of the Project, SADC shall make a fair *pro rata* contribution for the part of the work which has been completed.
2. With regard to the financing of the Project, South Africa shall-
 - a) transfer the funds made available by the EC and the Netherlands directly to the Implementing Agency;
 - b) administer and account for the funds in accordance with its financial regulations and other applicable rules, procedures and practices and shall keep separate records and accounts for the project and in accordance with the conditions in the agreements listed in Appendix A; and
 - c) submit to SADC, not later than 30 November 2008 a final report plus a financial statement showing the funds received and actual expenditures incurred for the project.

ARTICLE 5 CONSULTATIONS

The Parties agree to hold consultative meetings, the sequence of which shall be agreed upon by the Parties.