

**No. 47098**

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**Finland  
and  
Southern African Development Community**

**Agreement between the Government of the Republic of Finland and the Secretariat of the Southern African Development Community on the co-operation in the inception phase of a regional meteorology project in Southern Africa (with annexes\*<sup>1</sup>). Gaborone, 22 October 2009**

**Entry into force:** *21 November 2009, in accordance with article XVI*

**Authentic text:** *English*

**Registration with the Secretariat of the United Nations:** *Finland, 29 January 2010*

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**Finlande  
et  
Communauté de développement de l'Afrique australe**

**Accord entre le Gouvernement de la République de Finlande et le Secrétariat de la Communauté de développement de l'Afrique australe relatif à la coopération dans la phase initiale d'un projet régional de météorologie en Afrique australe (avec annexes\*). Gaborone, 22 octobre 2009**

**Entrée en vigueur :** *21 novembre 2009, conformément à l'article XVI*

**Texte authentique :** *anglais*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Finlande, 29 janvier 2010*

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\*The annexes are not published herein.—Les annexes ne sont pas publiées ici.

[ ENGLISH TEXT – TEXTE ANGLAIS ]

**AGREEMENT  
between**

**THE GOVERNMENT OF THE REPUBLIC OF FINLAND**

**and**

**THE SECRETARIAT OF THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY**

**on**

**THE CO-OPERATION IN THE INCEPTION PHASE OF A REGIONAL METEOROLOGY PROJECT  
IN SOUTHERN AFRICA**

The Government of the Republic of Finland ("Finland") and the Secretariat of the Southern African Development Community ("SADC") jointly referred to as "the Parties",

**RECALLING** the Millennium Declaration and the Millennium Development Goals;

**CONFIRMING** the eradication of poverty and the promotion of sustainable development as the main objectives for the co-operation between the Parties;

**REAFFIRMING** their commitment to harmonisation of development cooperation activities;

**OBSERVING** that the overall responsibility of the activities under this Agreement lies with SADC;

**HAVE AGREED** as follows:

**ARTICLE I  
Scope and Objective**

1. The Cooperation in the Inception Phase of a Regional Meteorology Project (hereafter referred to as "Inception Phase" or "the Project") shall be implemented in accordance with the Terms of Reference (including a tentative budget and timeframe for the Inception Phase), attached as Annex IV to this Agreement, and in accordance with the Work-plan for the Inception Phase to be finalised during the first two (2) months of the Inception Phase.

2. The overall objective of the Inception Phase is to set the objectives for the Regional Meteorology Project in Southern Africa, to be implemented after the Inception Phase, and to prepare the member states and their respective meteorological organizations to implement the Project. The outcome of the Inception Phase will be the Project Document for the Regional Meteorology Project with at least the following annexes: logical framework, proposal on short term expertise needed in the actual project, draft budget and work-plan for the actual Project.

**ARTICLE II**  
**Principles of Co-operation**

1. Respect for human rights, democratic principles, good governance, mutual respect and the rule of law shall form the basis for the co-operation between Finland and SADC and constitute the essential elements of this Agreement.
2. The Project shall be implemented in accordance with the principles of transparency and open dialogue.

**ARTICLE III**  
**Competent Authorities and Implementing Agency**

1. The Ministry for Foreign Affairs of Finland, represented by the Embassy of Finland in Pretoria and the Secretariat of the Southern African Development Community, represented by the Executive Secretary shall be the competent authorities responsible for the implementation of this Agreement.
2. The responsibility for the implementation of the Inception Phase lies with the Secretariat of the Southern Africa Development Community, or an institution/entity to which SADC has delegated the Implementation, which shall also have the right to represent the Southern Africa Development Community in matters pertaining to the implementation of the Inception Phase.
3. SADC shall be responsible for dealing with all claims which may be brought by third parties arising in connection with the Implementation of the projects and programmes and shall hold Finland, Consulting Agencies or any member of their personnel or a person employed by Finland harmless in respect of claims and liabilities relating to the Implementation of the Project.
4. Paragraph 3 above shall not apply where a claim or liability arises from gross negligence, wilful misconduct or criminal conduct established by a court of a SADC member country where the Inception Phase is carried out to the satisfaction of Finland.
5. SADC shall be entitled, in the event any claim is brought under paragraph 3 above, to exercise and enforce any right of set off, counterclaim, insurance, indemnity, contribution or guarantee to which Finland may be entitled to.

**ARTICLE IV**  
**Financing by Finland**

The contribution of Finland to the implementation of the Inception Phase in 2009 - 2010 shall, on a grant basis and subject to annual parliamentary approval in Finland, be a maximum of Eight Hundred Thousand Euros (€ 800 000). However, the contribution shall only be used up to the actual amount necessary to cover the costs resulting from the implementation of the Inception Phase as specified in Article I of this Agreement.

**ARTICLE V**  
**Financing by SADC**

1. SADC or an institution/entity to which SADC has delegated the implementation of this agreement shall cover the costs of office space.
2. All financial and other resources required for the implementation of the Inception Phase exceeding the Finnish contribution shall be provided by SADC or an institution/entity to which SADC has delegated the implementation in accordance with the Terms of Reference for the Inception Phase,

attached as Annex IV to this Agreement and in accordance with the Work-plan for the Inception Phase to be finalised during the first two (2) months of the Inception Phase.

#### **ARTICLE VI Procurements**

1. In accordance with the Terms of Reference for the Inception Phase, Finland has concluded an assignment on the supporting services for the Inception Phase with the Finnish Meteorological Institute. Other procurements shall be made as agreed upon between Finland and SADC in this Agreement.
2. All procurements shall be made in accordance with generally accepted principles and good procurement practices. Invitations to tender, as well as procurement contracts, shall, respectively, include a clause on the possibility of the tender being rejected and the contract being cancelled in case any illegal or corrupt practices have been connected with the award or execution of the contract. Furthermore, the damage or loss caused to the buyer shall, in case of the cancellation of the contract, be compensated by the supplier.
3. No offer, gift, payment or benefit of any kind, which would or could be construed as an illegal or corrupt practice, shall be accepted, either directly or indirectly, as an inducement or reward for the award or execution of procurement contracts.

#### **ARTICLE VII Information**

1. The Parties shall ensure that all relevant Stakeholders are informed of this Agreement and the Inception Phase.
2. SADC undertakes to ensure that the Member States are informed of this Agreement.
3. SADC shall provide Finland with such other information on its activities as may be reasonably requested from time to time for public information, dissemination or other purposes. Both Parties shall have the right to disseminate information about Finland's support, including this Agreement, to the general public and other interested parties.
4. SADC and Finland shall promptly inform each other of any event or situation which might affect the implementation of the Inception Phase and which may necessitate a modification or alteration of the scope, implementation, the agreed budget or other aspects of this Agreement.
5. In case any change occurs in the schedule or implementation of the activities as outlined in the Terms of reference (Annex IV of this Agreement) and in the Work-plan for the Inception Phase to be finalised during the first two (2) months of the Inception Phase, SADC shall promptly inform Finland.
6. Any publication or other material produced in connection with the Inception Phase shall mention that the Inception Phase is being or has been implemented with the financial contribution of Finland and within the framework of the Finnish development co-operation.

#### **ARTICLE VIII Reporting and Monitoring**

Reports on the implementation of the Inception Phase shall be made or prepared in the manner specified in the Terms of Reference for the Inception Phase attached to this Agreement (Annex IV). The report(s) shall be prepared in accordance with the Evaluation Guidelines (Annex V), issued by the Ministry for Foreign Affairs of Finland, and as agreed between Finland and SADC.

**ARTICLE IX**  
**Auditing**

1. Annual audit reports on the Inception Phase accounts shall be submitted to Finland within 3 months of the end of each financial year. The audit shall be performed by an independent and authorised auditor. The audit report shall certify whether submitted financial reports are correct and give a true and fair view of the results and financial position of the Inception. The audit shall include, on a test basis, an examination of the evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by the management of the Inception Phase.

2. SADC or an institution/entity to which SADC has delegated the implementation of the Project shall permit the representatives of Finland to carry out any inspection or audit in respect of the implementation of the Inception Phase. Such an inspection or audit may also be initiated by SADC.

**ARTICLE X**  
**Consultations**

1. The Parties shall cooperate to ensure that the purposes of this Agreement are carried out and will, at the request of either, be available consultations in order to:

- (a) Follow up the co-operation; and
- (b) Assess the attainment of the objectives of co-operation as well as the objectives and purposes of the Project/Programme.

2. The Parties shall provide each other with all necessary information for the purposes of the consultations.

**ARTICLE XI**  
**Force Majeure and Liability**

1. Neither party shall be liable for any failure or delay in performance under this Agreement where such failure or delay is as a proximate result of acts beyond that party's reasonable control and occurring without its fault or negligence, such as: acts of nature, war, labour dispute, strike, lockout, riot etc.

2. As a condition to the claim of non-liability, the party experiencing the difficulty shall give the other prompt written notice, with full details following the occurrence of the cause relied upon.

3. In the case of such an instance or occurrence described in 1 and 2 above, the dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

**ARTICLE XII**  
**Representatives of Finland**

SADC shall facilitate the participation of the officials or designated representatives of Finland in any preparation, review or evaluation missions or other activities relating to the implementation of this Agreement. Prior to the sending of such missions Finland shall consult with SADC.