

No. 47485

**South Africa
and
Namibia**

Agreement between the Republic of South Africa and the Republic of Namibia on the carriage of goods by road. Pretoria, 26 April 1994 and Windhoek, 16 May 1994

Entry into force: *16 May 1994 by signature, in accordance with article VIII*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *South Africa, 18 May 2010*

**Afrique du Sud
et
Namibie**

Accord entre la République sud-africaine et la République de Namibie relatif au transport de marchandises par route. Pretoria, 26 avril 1994 et Windhoek, 16 mai 1994

Entrée en vigueur : *16 mai 1994 par signature, conformément à l'article VIII*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Afrique du Sud, 18 mai 2010*

[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT BETWEEN

THE REPUBLIC OF SOUTH AFRICA

AND THE REPUBLIC OF NAMIBIA

ON THE CARRIAGE OF GOODS BY ROAD

WHEREAS the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia, the Republic of South Africa and the Kingdom of Swaziland (hereinafter referred to as Botswana, Lesotho, Namibia, South Africa and Swaziland) are members of the Southern African Customs Union; and

WHEREAS the carriage of goods by road between Botswana, Lesotho, South Africa and Swaziland is regulated by the Memorandum of Understanding on Road Transportation in the Common Customs Area of 4 September 1990 pursuant to the Customs Union Agreement between the Governments of Botswana, Lesotho, South Africa and Swaziland (hereinafter referred to as the Memorandum of Understanding); and

WHEREAS Namibia is considering accession to the Memorandum of Understanding; and

WHEREAS South Africa and Namibia recognize the need for interim measures to ensure the free flow of goods between their respective territories pending accession by Namibia to the Memorandum of Understanding; and

WHEREAS the competent authorities of the Contracting Parties, are desirous to ensure the free flow of traffic between the territories of the Parties through the allocation of permits; and

WHEREAS the competent authority of each Contracting Party shall issue such permits to both its own operators and operators of the other Contracting Party; and

WHEREAS applications for such permits should be dealt with expeditiously; and

WHEREAS an equitable basis for the regulation of road transport between the Contracting Parties should be ensured to promote equal competition between the operators of the Contracting Parties; and

WHEREAS Section 44 of the Road Transportation Act, 1977 (Act No. 74 of 1977) of the Republic of Namibia and Section 44 of the Road Transportation Act, 1977 (Act No. 74 of 1977) of the Republic of South Africa authorize the conclusion of an agreement on the cross-border carriage of goods by road;

NOW THEREFORE, the Governments of the Republic of South Africa and of the Republic of Namibia agree as follows:

ARTICLE I

DEFINITIONS

In this Agreement, unless the context indicates otherwise-

- (a) **"Carrier"** means,
 - (i) in Namibia, any person falling within the definition of "carrier" as defined in terms of Section 1 of the Road Transportation Act, 1977 (Act No. 74 of 1977), who is authorized to undertake the transportation of goods by road for hire or reward or in the course of his industry, trade or business by means of a motor vehicle registered in Namibia; and
 - (ii) in South Africa, any person who in terms of the Road Transportation Act, 1977 (Act No. 74 of 1977), is authorized to undertake the transportation of goods by road for hire or reward or in the course of his industry, trade or business by means of a motor vehicle and includes a registered operator, as contemplated in article 1 of the Road Traffic Act, 1989 (Act No. 29 of 1989);
- (b) **"Competent authority"** means-
 - (i) for Namibia, the Road Transportation Board; or
 - (ii) for South Africa, the National Transport Commission; or
 - (iii) any other body designated for that purpose by the respective Contracting Parties.
- (c) **"Consignment note"** means any document under cover of which goods are consigned to be transported between the territories of the Contracting Parties;
- (d) **"Contracting Party"** means the Government of the Republic of South Africa and the Government of the Republic of Namibia;
- (e) **"First competent authority"** means the competent authority of the territory in which the vehicle to be used for the carriage of goods as contemplated in this Agreement is registered;

- (f) **"Motor vehicle"** means any vehicle (other than a motor bicycle) designed or adapted for propulsion or haulage on a road by means of any power other than human or animal power and without the aid of rails, and includes any trailer, but does not include such vehicle also designed or adapted exclusively for towing another vehicle, and not used for the conveyance of goods;
- (g) **"Permit"** means a permit issued by a competent authority in terms of-
 - (i) the Road Transportation Act, 1977 (Act No. 74 of 1977), in Namibia; and
 - (ii) the Road Transportation Act, 1977 (Act No. 74 of 1977), in South Africa,but excludes a temporary permit; and
- (h) **"Second competent authority"** means the competent authority of the territory which receives an application for a permit to undertake the transportation of goods by a carrier whose vehicle or vehicles are not registered in its territory, which permit has been forwarded to it by the first competent authority as contemplated in Article II(2).