

No. 47493

**South Africa
and
Namibia**

Agreement between the Government of the Republic of Namibia and the Government of the Republic of South Africa relating to local government matters in Walvis Bay. Addo Park, 17 March 1994

Entry into force: *with retroactive effect from 1 March 1994, in accordance with article 9*

Authentic text: *English*

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

**Afrique du Sud
et
Namibie**

Accord entre le Gouvernement de la République de Namibie et le Gouvernement de la République sud-africaine relatif aux collectivités locales à Walvis Bay. Addo Park, 17 mars 1994

Entrée en vigueur : *avec effet rétroactif à compter du 1^{er} mars 1994, conformément à l'article 9*

Texte authentique : *anglais*

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

[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA

AND

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

RELATING TO LOCAL GOVERNMENT MATTERS IN WALVIS BAY

PREAMBLE

WHEREAS the Government of the Republic of Namibia and the Government of the Republic of South Africa (hereinafter referred to as "the Parties") have agreed that Walvis Bay shall be transferred to/reintegrated into Namibia with effect from 1 March 1994;

AND WHEREAS the Parties are committed to the resolution of all matters in connection therewith in such a way as to ensure an orderly and smooth transition without disruption of existing services and with due regard for existing rights and interests;

AND WHEREAS in the furtherance of this goal the Parties consider it desirable to regulate matters relating to local government in Walvis Bay;

NOW THEREFORE the Parties have agreed as follows:

ARTICLE 1

In this Agreement, except where the context indicates otherwise -

"Council" means the council of the Municipality of Walvis Bay constituted as contemplated in Proclamation No. 122 of 1993 of the Administrator of the Province of the Cape of Good Hope with effect from 1 November 1993;

"election" means the first election for members of the local authority council for Walvis Bay;

"employee" means a person in the service of the Council immediately prior to the fixed date;

"fixed date" means 1 March 1994;

"local authority council" means the council elected at the election;

"Municipality" means the municipality or other local authority established for Walvis Bay under the laws of South Africa or the laws of Namibia, as the context may require;

"Namibia" means the Republic of Namibia;

"South Africa" means the Republic of South Africa; and

"Walvis Bay" means the port, settlement and territory described in the Walfish Bay and St John's River Territories Annexation Act, 1884 (Act No. 35 of 1884), of the Cape of Good Hope, as "the Port or Settlement of Walfish Bay situated on the West Coast of South Africa, to the North of the Tropic of Capricorn, together with certain Territory surrounding the same" and includes the Island of Ichaboe and the other islands, islets and rocks mentioned in the Ichaboe and Penguin Islands Act, 1874 (Act No. 4 of 1874), of the Cape of Good Hope as well as the territorial waters of the said territory and islands.

ARTICLE 2

- (1) The Council shall with effect from the fixed date continue in office and to govern and represent the Municipality until the date of the election.
- (2) Any person who is a member of the Council on the date immediately prior to the fixed date shall, until the date of the election, and unless such person resigns or becomes otherwise disqualified, continue to be a member and to hold any office under the Council which that person held on the date immediately prior to the fixed date, and shall be entitled to the same remuneration, allowances and other benefits, be

subject to the same conditions and require the same qualifications applicable to such person on that date.

- (3) Any vacancy which occurs in the membership of the Council from the fixed date to the date of the election shall not be filled.

ARTICLE 3

The Government of Namibia shall do everything in its power to facilitate the holding of the election and to enable those persons who may qualify under the laws of Namibia to participate in the election and wish to do so, to so participate.

ARTICLE 4

- (1) Any employee shall from the fixed date continue to be employed by the Municipality until that employee resigns, retires or is discharged from employment in accordance with law.
- (2) The provisions of any contract of service, the terms and conditions of service (including any housing scheme or motor vehicle subsidy scheme of the Council and any provident fund scheme or group insurance scheme applicable to any employee immediately prior to the fixed date), and the salary, salary scale and other remuneration applying to an employee on the date immediately prior to the fixed date shall continue after that date on terms not less favourable than those applicable before the fixed date.
- (3) Any vacation leave, sick leave or other leave standing to the credit of an employee on the date immediately prior to the fixed date shall be credited to such employee from the fixed date.