

No. 45279*

**South Africa
and
Namibia**

Agreement between the Government of the Republic of South Africa and the Government of the Republic of Namibia regarding the co-ordination of search and rescue services. Windhoek, 8 September 2000

Entry into force: *7 December 2000, in accordance with article 15*

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**The texts reproduced below are the original texts of the agreement as submitted. For ease of reference, they were sequentially paginated. The relevant Treaty Series volume will be published in due course.*

**Afrique du Sud
et
Namibie**

Accord entre le Gouvernement de la République sud-africaine et le Gouvernement de la République de Namibie concernant la coordination des services de recherche et sauvetage. Windhoek, 8 septembre 2000

Entrée en vigueur : *7 décembre 2000, conformément à l'article 15*

Textes authentiques : *anglais*

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[ENGLISH TEXT – TEXTE ANGLAIS]

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**AGREEMENT BETWEEN THE
GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA**

AND

**THE GOVERNMENT OF THE
REPUBLIC OF NAMIBIA**

**REGARDING THE CO-ORDINATION OF
SEARCH AND RESCUE
SERVICES**

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**AGREEMENT BETWEEN THE
GOVERNMENT OF THE REPUBLIC SOUTH AFRICA
AND THE
GOVERNMENT OF NAMIBIA
REGARDING THE CO-ORDINATION OF
SEARCH AND RESCUE SERVICES**

PREAMBLE

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

DESIRING to conclude an Agreement for the purpose of establishing search and rescue services between and beyond their respective territories;

HEREBY AGREE as follows:

**ARTICLE 1
DEFINITIONS**

In this Agreement, unless the context otherwise indicates -

"Aeronautical authorities"	means the respective Ministers responsible for Civil Aviation or any person or body authorised to perform any functions exercised by the said Ministers;
"Agencies"	means organisations, voluntary or otherwise, deployed to support the search and rescue units during operations;
"Agreement"	means this Agreement, any Annexures thereto, and any amendments to the Agreement or any of its Annexures;
"Authorities"	means the Aeronautical and Maritime Authorities;
"Maritime Authority"	means the respective Ministers responsible for Shipping or Maritime Affairs or any person or body authorised to perform any functions exercised by the said Ministers;
"Search and Rescue Aircraft"	means aircraft of the Parties and such other aircraft of the Parties registry as may be brought under the control of a Rescue Co-ordination Centre or Permanent Subcentre of either Party for the purposes of a search and rescue operation;
"Search and Rescue Region"	means the South African search and rescue region as defined in ICAO Doc 7474 Part V and as delineated in the Provisional Maritime SAR Plan adopted at the Western Indian Ocean, Persian Gulf and Red Sea Conference and the Indian Ocean Conference on Maritime SAR and GDMSS held in Cape Town, September 1996, and Fremantle, September 1998 respectively and as indicated in the Admiralty List of Radio Signals, Vol 5 of 1998;
"Search and Rescue Services"	means all organisations, voluntary or otherwise capable of supporting search and rescue operations, that includes communications, distress monitoring, co-ordinating and if necessary, medical evacuations;
"Search and Rescue Units"	means units composed of personnel and provided with equipment suitable for the expeditious conduct of search and rescue operations;

"Search and Rescue vessel"	means a vessel of the Parties or the agencies of the Parties and such other vessels of the Parties registry as may be brought under control of a Rescue Co-ordination Centre or Permanent Subcentre of either Party for the purposes of a search and rescue operation;
" The Chicago Convention"	means the Convention of International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944, and includes any Annexure adopted under any Article of the Convention and any amendments of the Annexure or the Convention under any Article in so far as those Annexures and amendments have been adopted by both Parties;
"Territory"	means the land areas and territorial waters adjacent thereto under the sovereignty of such State.

**ARTICLE 2
CO-OPERATION BETWEEN THE PARTIES**

- (1) Each Party shall co-ordinate its Search and Rescue Organisations with those of the other Party and in so far as practicable develop common search and rescue procedures to facilitate co-ordination of search and rescue operations.
- (2) A Party shall, subject to its domestic law and such conditions as may be prescribed, permit immediate entry into its territory of search and rescue units of the other Party for the purpose of searching for the site of aircraft and maritime accidents and rescuing survivors of such accidents.
- (3) The authorities of a Party who wishes its search and rescue units to enter the territory of the other Party for search and rescue purposes shall transmit a request, giving full details of the projected mission and the need for it, to the Rescue Co-ordination Centre or Permanent Subcentre of such other Party or to such other authority as has been designated by that Party.
- (4) The authorities of the Parties shall -
 - (a) immediately acknowledge the receipt of such a request; and
 - (b) as soon as possible indicate the conditions, if any, under which the projected mission may be undertaken.

- (5) The Parties shall authorise their Search and Rescue Co-ordination Centres or Permanent Subcentres to -
 - (a) request from other Rescue Co-ordination Centres or Rescue Subcentres such assistance, including aircraft, vessels, personnel or equipment, as may be needed;
 - (b) make, subject to their domestic law, the necessary arrangements with the appropriate customs, immigration or other authorities with a view to expediting such entry.
- (6) The Parties shall authorise their Rescue Co-ordination Centres or Permanent Subcentres to provide assistance to other Rescue Co-ordination Centres, including when practicable, assistance in the form of aircraft, vessels, personnel or equipment, when so requested.
- (7) The Parties shall, when practicable, make arrangements for joint training exercises involving their search and rescue units, those of other States and operators, in order to promote search and rescue efficiency.
- (8) The Parties shall, when practicable, make arrangements for periodic liaison visits by personnel of the Parties to the Rescue Co-ordination Centres and Rescue Subcentres of the Parties.

**ARTICLE 3
CO-OPERATION BETWEEN THE PARTIES
WITH OTHER SERVICES**

- (1) Each Party shall arrange as far as practicable for all aircraft or vessels, local services and facilities which do not form part of the Search and Rescue Organisation to co-operate fully with the latter in search and rescue and to extend any possible assistance to the survivors of aircraft accidents or maritime casualties.
- (2) Each Party shall ensure that their search and rescue services co-operate with those responsible for investigating accidents and with those responsible for the care of those who suffered from the accident.
- (3) Each Party shall ensure that to facilitate accident investigation, persons qualified in the conduct of aircraft accident or maritime casualty investigations should, when practicable, accompany search and rescue units.

**ARTICLE 4
DISSEMINATION OF INFORMATION**

- (1) Each Party shall publish and disseminate all information necessary for the entry of search and rescue units of other States into its territory.
- (2) Each Party, when so requested, shall make available, through the Rescue Co-ordination Centres, Permanent Subcentres or other agencies, information regarding their search and rescue plans of operation.
- (3) Each Party shall to the extent desirable and practicable, disseminate to the general public directives on actions to be taken when there is reason to believe that an aircraft or vessel is in emergency and in the event of an aircraft accident or maritime casualty.

**ARTICLE 5
CO-OPERATION FOR INTER-STATE USE OF
SEARCH AND RESCUE FACILITIES BETWEEN THE PARTIES**

- (1) In compliance with the Standards and Recommended Practices of the International Civil Aviation Organisation and the International Maritime Organisation concerning the provision of assistance between the Search and Rescue Organisations of neighbouring States, the Search and Rescue Organisations of the Parties agree to assist as far as possible one another when the Rescue Co-ordination Centre or Permanent Rescue Subcentre of one Party requests the Rescue Co-ordination Centre or Permanent Rescue Subcentre of the other Party to provide such assistance
- (2) The Search and Rescue Organisations of the Parties agree to lend support to each other by pooling search and rescue facilities for operations along their common State boundaries within the area of the Search and Rescue Region.
- (3) The Search and Rescue Organisation of one Party shall ensure that the other Search and Rescue Organisation of the other Party at all times has the latest information concerning the availability, serviceability and related aspects of those of its search and rescue facilities which are part of the pool.
- (4) The Rescue Co-ordination Centre or Permanent Subcentres of either Search and Rescue Organisation shall immediately alert the Rescue Co-ordination Centre or Permanent Subcentres of the other Search and Rescue Organisation upon the occurrence of an incident within its Search and Rescue Region or area of influence, which requires or may eventually require the use of facilities of the other Search and Rescue Organisation

- (5) In order to facilitate the use of pooled facilities the Search and Rescue Organisation of each Party shall endeavour to establish agreements with relevant authorities which will permit -
- a) an aircraft of each Party to fly over or land at designated aerodromes within its territory, and
 - b) vessels of each Party to pass through or berth at designated ports within its territory,

without requiring special authorization to do so. Similar agreements shall cover the operation of surface facilities in border areas.

- (6) The Search and Rescue Organisation of the Party shall, when practicable, hold exercises at regular intervals for training purposes and verification or improvement of procedures.
- (7) The authorities in charge of the Search and Rescue Organisation of each Party, or persons designated by them, are authorised in the framework of this Agreement to communicate directly with each other on all common search and rescue matters.
- (8) The authorities contemplated in subArticle (8) and those of the principal facilities shall, when practicable, at least once a year convene a meeting to discuss the results of the operations and exercises of the preceeding year and, if necessary, determine what changes should be made in the plan of operations.
- (9) The Search and Rescue Organisations of the Parties shall inform the Search and Rescue Organisations of their other neighbouring States of the existence of this Agreement and explore the possibilities of establishing similar methods of collaboration with them.

**ARTICLE 6
CO-OPERATION FOR INTER-STATE USE OF SPECIFIC SEARCH AND
RESCUE FACILITIES WITH
WHICH ONE PARTY ASSISTS THE OTHER**

- (1) In compliance with the Standards and Recommended Practices of the International Civil Aviation Organisation and the International Maritime Organisation concerning the provision of assistance between the Search and Rescue Services of neighbouring States, the Search and Rescue Services of each Party undertake to assist the Search and Rescue Organisation in the manner specified in subArticle (2), upon receipt of a request for such aid from the other Party's Rescue Co-ordination Centre or Permanent Subcentre.

- (2) The Rescue Co-ordination Centres or Permanent Subcentre shall, when circumstances permit, upon request by a Party make available to the other Party's Rescue Co-ordination Centre or Permanent Subcentre, as required and or when practicable, one or more aircraft or vessel for search and rescue operations in the Party's territory or in the Search and Rescue Region concerning aircraft or vessel of any nationality.
- (3) The Rescue Co-ordination Centres or Permanent Subcentres of one Party shall, when making the request for aid, provide the other Party with all pertinent facts on the scope of the aid required.
- (4) Assisting aircraft or vessels contemplated in subArticle (4) shall report as soon as possible to the Rescue Co-ordination Centre or Permanent Subcentre requesting assistance, indicating its status as a search and rescue aircraft or vessel, and ask for instructions.
- (5) Upon completion of the search and rescue mission, the aircraft or vessel shall land or berth at its assigned base of operation in the Search and Rescue Region or territory of the State requesting assistance for debriefing purposes or, if need be, to prepare for further missions.
- (6) The Party requesting assistance shall make arrangements for facilitating the entry of search and rescue aircraft or vessel of the other Party, and for notifying the authorities concerned that such entry is about to take place.
- (7) The Search and Rescue Organisation of the Party requesting assistance in their territory shall defray the costs of the following services -
 - (a) Utilization of designated aerodromes or harbours and their equipment;
 - (b) fuelling, oil and lubricants, servicing and handling;
 - (c) accommodation and transportation of crew-members provided the choice of accommodation is acceptable to the requesting Party;
 - (d) liability for and compensation to persons who have been injured in the course and within the scope of a search and rescue operation in which they participated at the request of the Search and Rescue Co-ordination Centre or Permanent Subcentre of the other Party and under the direction of an authorised official who was placed in charge of a search and rescue operation as a consequence of the arrangements made by the Rescue Co-ordination Centre or Permanent Subcentre requesting assistance: Provided that no liability shall arise under this clause in the event of such claim or liability arising from gross negligence or wilful misconduct of such persons. This does not apply to members of a voluntary body which

is organised for that purpose or other organisation which has offered its services to the Rescue Co-ordination Centre or Permanent Subcentre voluntarily;

- (e) the costs involving the persons which the assisting Rescue Co-ordination Centre or Permanent Subcentre has provided, such as subsistence and transport allowances, and allowances of a special nature that are related to search and rescue operations, where such costs have been agreed upon beforehand between the Parties;
 - (f) the costs of replacing any survival equipment used during the search and rescue operation by the Search and Rescue Organisation providing assistance.
- (8) The recovery of re-usable supplies and survival equipment shall be arranged by the Rescue Co-ordination Centre or Permanent Subcentre of the Search and Rescue Organisation requesting assistance and the operator of the search and rescue aircraft or vessel.
- (9) The Rescue Co-ordination Centre or Permanent Subcentre of the Search and Rescue Organisation which requested assistance shall submit to the Rescue Co-ordination Centre or Permanent Subcentre which provided assistance two copies of the report of each search and rescue operation in which search and rescue aircraft or vessels of the Rescue Co-ordination Centre or Permanent Subcentre which provided assistance have participated.
- (10) The Rescue Co-ordination Centre or Permanent Subcentre of the Search and Rescue Service which requested assistance shall submit two copies of the report prepared by the crew which took part in the operation together with technical observations, if necessary, to the Rescue Co-ordination Centre or Permanent Subcentre which provided the assistance.

**ARTICLE 7
FACILITATION OF ENTRY
OF SEARCH AND RESCUE FACILITIES**

- (1) If a search and rescue aircraft or vessel of one Party lands or berths in the territory of the other Party in the course of such search and rescue operation, an oral or telephonic report shall be made to the nearest Customs and Immigration official so that he may assist, in any way possible, in connection with any special importation required in the search and rescue operation. This report may be made by the Rescue Co-ordination Centre or Permanent Subcentre organising the operation, whichever would best serve the interests of the particular operation.

- (2) If any merchandise carried in a search and rescue aircraft or vessel from the territory of one Party to the other in the course of such search and rescue operation, remain in the latter country in conclusion of the operation, such merchandise shall be subject to the custom procedures normally applied in that territory to import of merchandise.

**ARTICLE 8
REVIEWING OF PROCEDURES**

Since the efficiency of search and rescue will depend upon the degree of co-operation existing between participating Parties, the Rescue Co-ordination Centre or Permanent Subcentre Chiefs of the sovereign State or within the Search and Rescue Regions or sub-regions, the Parties shall review at regular intervals the agreements, the operational procedures and the means of transmission of information between Rescue Co-ordination Centres and Permanent Subcentres.

**ARTICLE 9
CO-ORDINATION BETWEEN AERONAUTICAL AND MARITIME SERVICES**

- (1) The Parties shall ensure the closest practicable co-ordination between maritime and aeronautical services so as to provide for the most effective and efficient search and rescue services in and over their Search and Rescue Regions.
- (2) Whenever practicable, each Party shall establish joint rescue co-ordination centres and rescue Subcentres to serve both maritime and aeronautical purposes.
- (3) Whenever separate maritime and aeronautical Rescue Co-ordination Centres or Rescue Subcentres are established to serve the same area, the Parties concerned shall ensure the closest practicable co-ordination between the Centres or Subcentres.
- (4) The Parties shall ensure as far as is possible, the use of common procedures by rescue units established for maritime purposes and those established for aeronautical purposes.

**ARTICLE 10
AMENDMENT OF AGREEMENT**

- (1) This Agreement and any Annexure thereto may be amended at any time by mutual consent of the Parties through an exchange of notes between the Parties through the diplomatic channel.

- (2) This Agreement, shall be amended so as to conform to any multilateral convention which may become binding on both Parties.

ARTICLE 11 CONSULTATIONS

- (1) In the spirit of close co-operation, the Parties, through their respective authorities shall consult each other from time to time with a view to ensuring the implementation of, satisfactory compliance with, and amendment of the provisions of this Agreement.
- (2) Such consultations may be through discussions or correspondence and shall begin within a period of 90 days of the date of receipt of such a request, unless otherwise agreed.

ARTICLE 12 TERMINATION OF AGREEMENT

- (1) This Agreement may be terminated by either Party giving written notice through the diplomatic channel to the other Party of its intention to terminate this Agreement. Such notice shall simultaneously be communicated to the International Civil Aviation Organisation and the International Maritime Organisation.
- (2) The Agreement shall terminate 12 months after the date of receipt of the notice by the other Party, unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgement of receipt by the other Party, such notice shall be deemed to have been received 14 days after receipt of the notice by the International Civil Aviation Organisation and the International Maritime Organisation.

ARTICLE 13 REGISTRATION OF AGREEMENT AND AMENDMENTS

This Agreement and any subsequent amendments thereto shall be submitted by the Parties to the International Civil Aviation Organisation and the International Maritime Organisation for registration.

**ARTICLE 14
SETTLEMENT OF DISPUTES**

- (1) Any dispute between the Parties arising out of the interpretation or implementation of this Agreement, shall be settled amicably by negotiation or consultation between the Parties.
- (2) If the Parties fail to reach a settlement by negotiation or consultation, they may agree to refer the dispute for mediation to a competent person or body, as shall be agreed to by the Parties.
- (3)
 - (a) If settlement is not reached in accordance with subArticles (1) or (2) the dispute shall, at the request of either Party, be submitted for decision to a tribunal of three arbitrators.
 - (b) Each Party shall appoint one arbitrator and the third arbitrator, to be jointly appointed by the two arbitrators so appointed, shall act as President of the tribunal.
 - (c) Each Party shall appoint its arbitrator within a period of 60 days from the date of receipt of a notice by either Party from the other, through the diplomatic channels, requesting arbitration of the dispute by such a tribunal and the third shall be appointed within a further period of 30 days commencing on the day immediately following the last calendar day of the period allowed for the appointment of the first two arbitrators.
 - (d) If either Party fails to appoint an arbitrator within the period specified, or if the third arbitrator is not appointed within the period specified, the President of the Council of the International Civil Aviation Organisation or International Maritime Organisation, depending on the nature of the dispute, may be requested by either Party to appoint an arbitrator or arbitrators, as the case may require. In such case, the arbitrator or arbitrators appointed by the said President shall not be nationals or permanent residents of the States Party to this Agreement.
 - (e) Each Party shall comply with any decision given by the arbitral tribunal.
- (4) Each Party shall meet the costs of remuneration and the expenses of its arbitrator. The remuneration and the expenses of the third arbitrator and the expenses of the tribunal, the nature and limits of which shall be agreed beforehand by the Parties, shall be shared equally between and shall be met by the Parties, who shall also determine the venue for the tribunal. The arbitrary tribunal shall determine any question concerning the division of costs of the arbitrary tribunal or the procedure.

- (5) If either Party fails to comply with a decision or stipulation contemplated in subArticle (3)(e) the other Party may limit, suspend or revoke any rights or privileges which it has granted under this Agreement to the Party in default.

**ARTICLE 15
ENTRY INTO FORCE**

This Agreement shall enter into force 90 days after the date of its signature.

IN WITNESS WHEREOF* the undersigned, being duly authorised by their respective Governments, have signed and sealed this Agreement in duplicates in the English language, both texts being equally authentic.

Done at Windhoek on this 8th day
of September 10 2000.

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

**FOR THE
GOVERNMENT OF NAMIBIA**

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