



**AGREEMENT BETWEEN**

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

**AND**

**THE GOVERNMENT OF THE REPUBLIC OF PORTUGAL  
ON POLICE COOPERATION**

## PREAMBLE

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

WISHING to consolidate and develop the cordial relations between the Republic of South Africa and the Republic of Portugal;

WISHING FURTHER to promote peace, stability, security and prosperity in their respective countries;

RECOGNIZING the importance of the promotion and development of cooperation in the field of combating crime;

TAKING INTO ACCOUNT the objectives and principles of international agreements to which they are parties, as well as resolutions of the United Nations and its specialized agencies on combating crime;

HAVING respect for sovereignty, equality and mutual benefit;

HEREBY AGREE as follows:

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## Article 1

### COMPETENT AUTHORITIES AND OBLIGATION TO COOPERATE

- (1) The competent authorities responsible for the implementation of this Agreement shall be -
  - (a) on the South African part, the Department of Safety and Security; and
  - (b) on the Portuguese part, the Ministry of Internal Administration.
- (2) The competent authorities shall cooperate in accordance with the provisions of this Agreement, acting under their jurisdiction and subject to the international obligations and domestic law of the Parties.

## Article 2

### SCOPE OF AGREEMENT

- (1) The competent authorities, within their means, undertake to cooperate in preventing, detecting, suppressing and investigating crime, including, but not limited to -
  - (a) corruption and organized crime;
  - (b) the illicit production of and traffic in narcotic and

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psychotropic substances, including those materials which are used in their production;

- (c) illicit trafficking in firearms, ammunition, explosives and poisonous substances, including radioactive materials;
  - (d) trafficking in stolen goods;
  - (e) trafficking in persons;
  - (f) economic crimes, including money laundering; and
  - (g) the production and sale of forged banknotes, securities and other fraudulent documents.
- (2) This Agreement does not apply to extradition and mutual legal assistance in criminal matters.

### Article 3

#### MANNER OF COOPERATION

- (1) In order to give effect to the provisions of Article 2, the competent authorities shall cooperate in the following manner:
- (a) The exchange of information on working experience in respect of police and criminal sciences, including personnel training courses as well as victim support programmes;

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- (b) The exchange of information of interest relating to crimes which are being planned or have been committed and to persons and organizations involved in these crimes;
- (c) The exchange of information, including operational and forensic information about narcotic and psychotropic substances;
- (d) The exchange of legislation;
- (e) The exchange of scientific and technical literature and data on the functions of the competent authorities;
- (f) The execution of requests as contemplated in Article 5.

#### Article 4

#### DEVELOPMENT OF COOPERATION

- (1) With due regard to the provisions of Article 2, this Agreement does not preclude the competent authorities from determining and developing other areas and forms of cooperation, which may include unilateral support in specific areas.
- (2) The development of cooperation may be the object of specific joint cooperation programmes which shall be defined by the competent authorities.

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## Article 5

### REQUESTS FOR ASSISTANCE

- (1) Cooperation within the framework of this Agreement shall take place on the basis of requests for assistance from the interested competent authority or on the initiative of the competent authority which deems such assistance to be of interest to the other competent authority.
- (2) Requests for assistance shall be made in writing. In cases of emergency, requests may be made orally, but shall be confirmed in writing within seven days.
- (3) Should there be any doubt about the authenticity or the content of the request, further confirmation may be requested.
- (4) Requests for assistance shall be signed by the head of the competent authority or its delegate.

## Article 6

### REFUSAL OF ASSISTANCE

- (1) Assistance within this Agreement may be refused wholly or partially if the requested competent authority deems the execution of the request to be detrimental to the sovereignty, security, public order or other essential interests of its State, or deems it to be in conflict with its domestic law or international

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obligations.

- (2) The requested competent authority shall, before taking a decision to refuse the assistance requested in accordance with subArticle (1), consult with the requesting competent authority in order to establish whether the assistance may be granted on the conditions which the requested competent authority may impose. If the requesting competent authority agrees to receive assistance under the suggested conditions, it shall comply with these conditions.
- (3) The requesting competent authority shall be notified in writing about full or partial refusal to execute the request together with an explanation of the reasons for such refusal.

## Article 7

### EXECUTION OF REQUESTS

- (1) The requested competent authority shall take all measures to ensure the prompt and full execution of requests.
- (2) The requesting competent authority shall be notified immediately of any circumstances hampering the execution of the request or causing considerable delay in its execution.
- (3) If the execution of the request does not fall within the jurisdiction of the requested competent authority, it shall immediately notify the requesting competent authority accordingly.

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- (4) The requested competent authority may request such further information as it deems necessary to duly execute the request.
- (5) If the requested competent authority considers that the immediate execution of the request may hamper criminal prosecution, other proceedings or investigations being carried out in its State, it may suspend the execution of the request or allow the execution under conditions which were set as necessary after consultations with the requesting competent authority. If the requesting competent authority agrees to receive assistance under the suggested conditions, it shall comply with these conditions.
- (6) On receipt of the application made by the requesting competent authority, the requested competent authority shall take all necessary measures to ensure the confidentiality of the fact that the request was made, its contents and annexed documents, as well as the fact of providing assistance. If it is not possible to execute the request without preserving its confidentiality, the requested competent authority shall inform the requesting competent authority accordingly, after which the latter may decide as to whether it will be acceptable to execute the request under such conditions.
- (7) The requested competent authority shall, at its earliest convenience, inform the requesting competent authority about the results of the execution of the request.

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## Article 8

### LIMITATIONS RELATING TO THE USE OF INFORMATION, DOCUMENTS AND PERSONAL DATA

- (1) Each competent authority shall ensure the confidentiality of information, documents and personal data received from the other competent authority, if they are restricted or the latter competent authority disapproves of its disclosure. The degree of such a restriction shall be determined by the providing competent authority.
- (2) Information, documents and personal data received from a competent authority in accordance with this Agreement shall not be disclosed to a third party, except with the prior written consent of the providing authority.

## Article 9

### EXPENSES

Ordinary expenses incurred in processing a request in terms of this Agreement shall be borne by the requested Party, unless otherwise agreed upon by the Parties. Should the request involve high or extraordinary expenses, the Parties shall consult each other in order to establish the terms and conditions under which the request shall be processed, and the way in which the expenses shall be borne.



## **Article 10**

### **MEETINGS AND CONSULTATIONS**

In order to facilitate the execution of this Agreement, representatives of the competent authorities shall, when necessary, have bilateral meetings and consultations with a view to discussing and improving cooperation.

## **Article 11**

### **SETTLEMENT OF DISPUTES**

Any dispute arising from the interpretation or implementation of this Agreement shall be settled amicably in a spirit of mutual understanding through consultation or negotiation between the Parties.

## **Article 12**

### **RELATION TO OTHER INTERNATIONAL TREATIES**

The provisions of this Agreement shall not affect the rights and obligations arising out of other international treaties to which the Parties are signatories.

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## Article 13

### ENTRY INTO FORCE, DURATION, RENEWAL, TERMINATION AND AMENDMENT

- (1) This Agreement shall enter into force on the date on which the Parties have notified each other in writing through the diplomatic channel of their compliance with their constitutional and other internal legal requirements. The date of entry into force shall be the date of the last notification.
- (2) This Agreement shall remain in force for an initial period of three years and shall automatically be renewed for equal and successive periods unless terminated by either Party giving six months written notification thereof to the other Party through the diplomatic channel.
- (3) This Agreement may be amended by mutual consent of the Parties through the diplomatic channel.

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IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed and sealed this Agreement in two originals in the English and Portuguese languages, all texts being equally authentic.

Done at PRETORIA on this 22<sup>nd</sup> day of APRIL in this year 2002.

 

FOR THE GOVERNMENT OF  
THE REPUBLIC OF SOUTH  
AFRICA

FOR THE GOVERNMENT OF  
THE REPUBLIC OF  
PORTUGAL