



MEMORANDUM OF UNDERSTANDING

BETWEEN

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

AND

THE AFRICAN UNION

CONTRIBUTING

**SOUTH AFRICAN POLICE SERVICE
MONITORS TO THE CIVILIAN POLICE
COMPONENT OF THE AFRICAN UNION
MISSION IN THE DARFUR REGION OF THE
REPUBLIC OF THE SUDAN (AMIS)**

PREAMBLE

The Government of the Republic of South Africa and the African Union, hereinafter jointly referred to as "the Parties" and in the singular as "a Party";

SEEKING to promote peace and stability in accordance with international law, the Charter of the United Nations and the Constitutive Act of the African Union;

REAFFIRMING the principles of strict respect for the sovereignty, territorial integrity and political independence of the Republic of the Sudan;

RECALLING the Agreement on Humanitarian Ceasefire on the Conflict in Darfur, which was signed on 8 April 2004 between the Government of the Republic of the Sudan on the one hand, and the Sudan Liberation Movement/Army and the Justice and Equality Movement on the other, establishing the Ceasefire Commission (CFC), as well as the Agreement with the Sudanese Parties on the Modalities for the Establishment of the Ceasefire Commission and the Deployment of Observers in the Darfur signed 28 May 2004 between the Government of the Republic of the Sudan, the Sudan Liberation Movement/Army, the Justice and Equality Movement, the African Union and the Tchadian Mediation;

FURTHER RECALLING the Decision on the conflict in the Darfur Region of the Sudan by the Peace and Security Council, at its 10th Meeting held on 25 May 2004, in Addis Ababa, Ethiopia, authorising the Chairperson of the AU Commission to take all necessary measures to ensure an effective monitoring of the Humanitarian Ceasefire Agreement, and calling on the parties to extend full cooperation to the CFC and the AU Observers and to ensure their free movement throughout Darfur;

NOTING the Decision of the Peace and Security Council on the Enhancement of the African Union Mission in the Sudan at its 17th Meeting held on 20 October 2004 in Addis Ababa, Ethiopia;

"Host Country" means the Government of the Republic of the Sudan;

"Member" or "Members" means every person who is a member of the South African Police Service, participating as the South African Police Service Monitors in AMIS;

"Memorandum of Understanding" ("MOU") means this MOU, including all of its annexes and supplementary arrangements;

"Mission Area" means Khartoum and the designated area of the Darfur Region in the Republic of the Sudan as determined by AMIS, as well as any other area in the Republic of the Sudan as agreed by the Parties;

"Sending Party" means the Government of the Republic of South Africa;

"South African Police Service Monitors" means all the Members contributed to the Civilian Police Component of AMIS by the Republic of South Africa, including all South African-owned equipment deployed to the Mission Area in terms of this MOU; and

"Status of Mission Agreement" ("SOMA") means the Status of Mission Agreement between the African Union Commission and the Government of the Republic of the Sudan on the Establishment and Management of the Ceasefire Commission in the Darfur Area of the Sudan (CFC), signed on 4 June 2004 in Khartoum.

"Host Country" means the Government of the Republic of the Sudan;

"Member" or "Members" means every person who is a member of the South African Police Service, participating as the South African Police Service Monitors in AMIS;

"Memorandum of Understanding" ("MOU") means this MOU, including all of its annexes and supplementary arrangements;

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ARTICLE 2

PURPOSE AND FUNCTIONS

- (1) The purpose of this MOU is to establish and define the status of the South African Police Service Monitors in the territory of the Host Country in accordance with the AMIS Mandate and to establish the administrative, financial and logistical terms and conditions governing the participation of the South African Police Service Monitors in AMIS.
- (2) The Sending Party shall provide the following Members to AMIS to be deployed for a period of twelve (12) months at a time, provided that the Sending Party reserves the right to rotate the Members at intervals of six (6) months:
 - (a) A suitable person to be appointed on contract by the AU as Commissioner;
 - (b) 100 Members, which number may be increased as and when agreed by the Parties.
- (3) The Members shall, during the period of deployment, be required to –
 - (a) assist in the development of proactive public confidence-building measures;
 - (b) establish and maintain contact with the Police Authorities of the Host Country;
 - (c) collaborate with the Police of the Host Country in day-to-day community policing activities;

- (d) perform village and town patrols, as well as patrols within the Internally Displaced Persons camps in the Mission Area together with the Police of the Host Country;
- (e) observe, monitor and report on the effectiveness of the service delivery of the Police of the Host Country; and
- (f) perform such other duties in relation to the deployment as may be assigned by the Commissioner.

ARTICLE 3

APPLICATION

This MOU shall be applied in conjunction with the SOMA and the AU shall ensure that, to the greatest extent possible, all of the rights and privileges contained in the SOMA shall be accorded to the South African Police Service Monitors.

ARTICLE 4

CONTRIBUTION BY THE SENDING PARTY

- (1) The Sending Party shall contribute to AMIS the personal equipment listed in Annex "A" for issue to Members.
- (2) The South African Police Service Monitors shall be deployed in accordance with the AMIS Operational Plan.

ARTICLE 5

VISITS

- (1) The Sending Party shall, upon notification to the AU Commission, be entitled to visit and inspect the South African Police Service Monitors or to supply its Members with such social, psychological and other assistance as may be required.
- (2) The AU Commission shall give the necessary support to and facilitate any such visit.

ARTICLE 6

JURISDICTION

- (1) The Sending Party shall have exclusive criminal jurisdiction in respect of offences committed by its Members in the territory of the Host Country and undertakes to take such legal steps as are permitted by its domestic law against such Members. The Sending Party shall inform the AU Commission of the outcome of any legal actions taken against any such Members through the diplomatic channel.
- (2) If any civil proceeding is instituted against a Member or Members before any court of the Host Country, the Commissioner shall be notified immediately, and he or she shall certify to the court whether or not the proceeding is related to the official duties of such Member or Members.
- (3) If the Commissioner certifies that the proceeding is related to official duties, such proceeding shall be discontinued.

- (4) If the Commissioner certifies that the proceeding is not related to official duties, the proceeding may continue.
- (5) If the Commissioner certifies that a Member is unable because of official duties or authorised absence to protect his or her interests in the proceeding, the court shall at the Member's request suspend the proceeding until elimination of such disability, but for no more than ninety days.
- (6) The property of the Sending Party shall be free from seizure in satisfaction of a judgement, decision or court order.
- (7) The property of a Member or Members shall be free from seizure in satisfaction of any decision relating to his or her conduct in carrying out official duties.
- (8) The person of a Member shall not be restricted in civil proceedings whether to enforce a judgement, decision or court order or to compel an oath or for any other reason.

ARTICLE 7

BOARDS OF INQUIRY

- (1) In case of any accident or incident involving a Member or Members resulting in the injury or death of such Member or Members and/or a third party, AMIS shall institute a Board of Inquiry to investigate the circumstances surrounding the cause of such injury or death.
- (2) A Board of Inquiry instituted by AMIS concerning an accident or incident involving personnel, equipment, services, material and other goods provided by the Sending Party shall, where possible, include at least one

Member and a copy of the record of proceedings shall be made available to the Sending Party.

- (3) This Article is without prejudice to the right of the Sending Party to institute its own Board of Inquiry to investigate the accident or incident referred to in sub-Article (2).
- (4) Notwithstanding these arrangements, the Sending Party reserves the right to conduct any *post mortem* examination of any deceased Member or Members in the territory of the Host Country.

ARTICLE 8

CLAIMS BY THIRD PARTIES

The AU shall be responsible for dealing with any claims by third Parties where the loss of or damage to their property, or death or personal injury, was caused by a Member or Members in the performance of services or any other activity or operation under this MOU. However, if the loss, damage, death or injury arose from gross negligence or wilful misconduct by a Member or Members, the Sending Party shall be liable for such claims.

ARTICLE 9

ENTRY, RESIDENCE AND DEPARTURE

- (1) The South African Police Service Monitors shall, whenever so required by the Commissioner, have the right to enter into, reside in and depart from the territory of the Host Country.
- (2) The AU shall facilitate the following:

- (a) entry into, stay and departure from the territory of the Host Country of the South African Police Service Monitors, including exemptions from passport and visa regulations and immigration inspections and restrictions as well as payment of any fees or charges upon entering the territory of the Host Country;
- (b) exemption from any regulations governing the residence of aliens in the territory of the Host Country, including registration, but this exemption shall not be construed as granting any right to permanent residence or domicile in the territory of the Host Country; and
- (c) the obtaining of aircraft landing rights for the Sending Party relating to the activities of the South African Police Service Monitors.

ARTICLE 10

ARMS, EQUIPMENT AND DRESS CODE

- (1) Subject to the provisions of sub-Article (2), members of the South African Police Service Monitors shall have the right to wear the uniform of the Sending Party, display rank insignia, use equipment and possess and carry side-arms and ammunition during AMIS.
- (2) The right to carry and use arms and ammunition shall be subject to the discretion of the Commissioner, in consultation with the HOM, who shall authorize the carrying thereof and issue guidelines and set conditions under which they may be used, giving due consideration to the inherent right of self-defence.
- (3) Members of the South African Police Service Monitors shall wear the standard AMIS accoutrements in addition to their national uniforms.

- (4) The wearing of civilian dress by Members of the South African Police Service Monitors may be authorised by the Commissioner.
- (5) The Sending Party shall provide the firearms and associated ammunition to each Member throughout the duration of AMIS.

ARTICLE 11

PERMITS AND LICENCES

Members of the South African Police Service Monitors shall be allowed to operate any AMIS vessels, vehicles or communication equipment and practise any profession or occupation in connection with the functioning of AMIS without any taxes, fees or supplementary licensing or permits.

ARTICLE 12

MEDICAL AND DENTAL SUPPORT

- (1) The provision of medical and dental support, from Level 1 to Level 4 and including out-of-mission evacuation, shall be the responsibility of the AU, on condition that the Sending Party may provide additional medical support at its own cost.
- (2) The AU shall use its best endeavours to facilitate the import and export, free of duty and taxes, of all medical equipment, supplies, medicines and related goods that the Sending Party may deem necessary in order to comply with the provisions of this Article.
- (4) The Sending Party shall have the right to:

- (a) immediately evacuate all casualties, on condition that it shall bear the costs of such evacuation;
- (b) immediately repatriate bodies of deceased Members from the territory of the Host Country, subject to any investigation by AMIS, referred to in Article 7.

ARTICLE 13

FINANCIAL RESPONSIBILITIES AND ARRANGEMENTS

- (1) The AU shall provide meals and accommodation to Members during the course of their deployment in the Mission Area:
- (2) The AU shall be responsible for the cost of transportation of Members for the initial deployment from the territory of the Sending Party to the Mission Area and their final return from the Mission Area to the territory of the Sending Party.
- (3) The AU shall be responsible for the transportation costs of the Members, as referred to in Article 4, in respect of one full rotation of all Members every twelve (12) months.
- (4) Subject to the right of the AU to deduct a fixed amount in respect of meals provided by the AU, each Member shall be entitled to a subsistence allowance of one hundred and twenty United States Dollars (US\$ 120) per day, payable from the time of his or her departure from the Sending Party until his or her arrival in the territory of the Sending Party.
- (5) The AU shall be responsible for the payment of all common AMIS expenditure.

- (6) The AU shall provide the personal equipment to be issued to Members as indicated in Annex "B".

ARTICLE 14

AMENDMENT AND SUPPLEMENTARY ARRANGEMENTS

- (1) This MOU may be amended by mutual consent of the Parties by an Exchange of Notes through the diplomatic channel.
- (2) The Parties may conclude supplementary arrangements not inconsistent with this MOU by an Exchange of Notes through the diplomatic channel.

ARTICLE 15

SETTLEMENT OF DISPUTES

- (1) Any dispute between the Parties arising out of the interpretation or implementation of this MOU, shall be settled amicably by the Parties through consultation or negotiation between them through the diplomatic channel.
- (2) Disputes that have not been resolved as provided for in sub-Article (1) may be submitted to arbitration at the request of either Party. Each Party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint a third, who shall be the Chairperson. The procedures for the arbitration shall be determined by the arbitrators. Each Party shall bear its own expenses, including expenses related to the Arbitrator appointed by it. The expenses related to the third Arbitrator as well as any other expenses to be incurred, shall be borne in equal parts by the Parties.

- (3) An arbitration finding shall be binding on the Parties. The Party against whom a finding has been made shall bear all the expenses relating to the arbitration procedure and any other cost that may be decided upon by the arbitration.

ARTICLE 16

APPLICABLE LAW

This MOU shall be governed by the rules of international law.

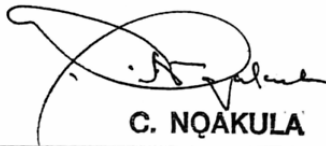
ARTICLE 17

ENTRY INTO FORCE, DURATION AND TERMINATION

- (1) This MOU shall enter into force upon signature by the duly accredited representatives of the Parties.
- (2) This MOU shall remain in force for the duration of AMIS. However, any of the Parties may terminate the same at any time by giving ninety (90) days' written notice to this effect through the diplomatic channel.

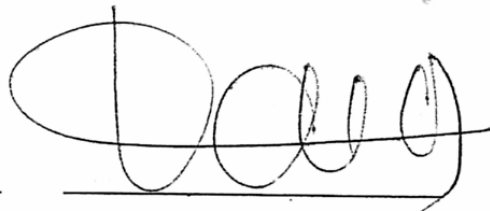
IN WITNESS WHEREOF, the undersigned, being duly authorised, have signed and sealed this MOU in two originals in the English language, both texts being equally authentic.

DONE at Addis Ababa on this 9th day of March
in this year 2005.



C. NQAKULA

FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA



FOR THE AFRICAN UNION
Amb. Saïd Djinnit

Annex A

**LIST OF PERSONAL EQUIPMENT THAT SHALL BE CONTRIBUTED
TO AMIS IN RESPECT OF MEMBERS: ARTICLE 4**

No.	Description
1	Field Dress Cap
5	Field Dress Shirts
3	Field Dress Trousers
5	Socks (pairs)
2	Field Dress Jacket
1	Handcuffs
1	Baton
1	Pepper Spray
1	Sidearm
50	Ammunition (Cartridges) to be supplemented when required
1	Torch
	Personal hygiene (Applicable items)

Annex B

PERSONAL EQUIPMENT TO BE PROVIDED BY THE AU TO MEMBERS: ARTICLE 13(6)

No.	Description
1	Beret
1	AU Scarf
1	AU Armband
1	Helmet
1	Bullet proof vest
1	Entrenching Tool
1	Utility Belt
1	Canteen pouch
1	Utility Pouch
1 per section	Binoculars
1 per section	Compass
1 per section	GPS
1 per section	Night Vision Goggle
1	Sleeping Bag
1 per section	Map Case
1	Mosquito Net
1	Utility Knife
1	First Aid Kit
1	Kit Bag
1	Back Pack
1	Cot (Bed)
1	Overnight Shelter
Sufficient	Cleaning Kit