

AGREEMENT BETWEEN

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

AND

**THE GOVERNMENT
OF THE KINGDOM OF SWAZILAND**

**IN RESPECT OF CO-OPERATION AND MUTUAL ASSISTANCE
IN THE FIELD OF CRIME COMBATING.**

PREAMBLE

WHEREAS the Government of the Republic of South Africa and the Government of the Kingdom of Swaziland (hereinafter referred to as "the Parties" and separately referred to as a "Party") acknowledge the cordial relations which exist between their Governments and their peoples;

AND WHEREAS the supremacy of the principle of non-interference in the internal affairs of other states and the upholding of their laws are recognised;

AND WHEREAS the Parties are mutually desirous of concluding an agreement in order to contribute towards peace, stability, security, prosperity and the combating of crime;

AND WHEREAS the President of the Republic of South Africa and the King of the Kingdom of Swaziland are to sign an agreement of co-operation and mutual assistance in terms of their respective laws;

NOW THEREFORE, the Parties hereby agree as follows -

ARTICLE 1
INTERPRETATION

This Agreement shall in no way be construed as derogating from any provision of-

- (a) the respective laws of the Parties regarding extradition; and
- (b) any other agreement entered into between the Parties.

ARTICLE 2
IMPLEMENTATION AND EXECUTION OF AGREEMENT

- (1) The Parties shall consult with each other as to the legislative or administrative steps that may be necessary to -
 - (a) implement the provisions of this Agreement; and
 - (b) remove any legal obstacles or impediments that may be found to exist in the execution of the provisions of this Agreement.
- (2) Each police service shall advise its Government as to -
 - (a) the legislative or administrative steps contemplated in sub-Article (1); and
 - (b) any other action which may be necessary to ensure that the performance of police functions by any member of its police service (hereinafter referred to as a police official) in the territory of the other Party is lawful in every respect.

ARTICLE 3
RIGHT OF ENTRY OF POLICE OFFICIALS

- (1) Subject to sub-Article (2) and Article 4, any police official of a Party (hereinafter referred to as the visiting police official) may enter into and be present in, or travel through or across, the territory of the other Party (hereinafter referred to as "the hosting Party") for the purpose of-
 - (a) any police investigation or the seizure of exhibits relating to an offence or suspected offence committed in or in respect of the territory or State of the visiting police official;

- (b) tracing and questioning a witness in connection with any such offence and taking the steps authorised by law to obtain his or her presence in a court of competent jurisdiction; and
- (c) the co-operation and assistance contemplated in this Agreement.

(2) The right of entry, presence and travelling contemplated in sub-Article (1) shall be exercised subject to the laws of the territory in question.

(3) The police service of the hosting Party (hereinafter referred to as the hosting police service) shall be responsible for-

- (a) tracing, arresting, detaining, guarding or keeping in custody any person suspected of having committed any offence contemplated in sub-Article (1)(a) and taking such steps as the hosting police service is authorised to by law in order to effect any such person's extradition for trial in a court of competent jurisdiction;
- (b) searching for, and seizing, removing or transporting of, any exhibit known or suspected to be involved in the commission of any such offence; and
- (c) such other acts as may from time to time in any urgent or extra-ordinary circumstances be authorised by the Parties or the responsible officials of the police service concerned, with the prior approval of both Parties.

ARTICLE 4

CONDITIONS FOR EXERCISE OF RIGHT OF ENTRY

(1) A police official of a Party who wishes to enter into and to be present in, or to travel through or across, the territory of the other Party for a purpose mentioned in Article 3(1), shall obtain the approval of -

- (a) in the case of such an official being a member of the South African Police Service, the officer or officers which the National Commissioner of the South African Police Service may from time to time designate in writing for this purpose;

(b) in the case of such an official being a member of the Royal Swazi Police Service, the officer or officers which the Commissioner of the Royal Swazi Police Service may from time to time designate in writing for this purpose;

- (2) Upon receipt of a request for such approval the officer designated in sub-Article (1)(a) or (b), as the case may be, shall immediately forward the request to his or her counterpart who shall in turn make the necessary arrangements for such an entry and the assistance to be afforded.
- (3) The officer concerned of the hosting police service shall without delay convey the nature of such arrangements to his or her counterpart.
- (4) Under no circumstances shall the visiting police official have the right to act on his or her own, but shall at all times be accompanied by a member of the hosting police service and all actions to be taken shall be done by the hosting police official concerned.
- (5) The hosting police service shall report any visiting police official who acts in a manner contrary to any provision of this Agreement, or who otherwise misconducts himself or herself, to the police official under whose auspices the visit was arranged, who shall, in consultation with his or her counterpart of the hosting police service, take such steps as may in their opinion be necessary to remedy the breach or as may otherwise be required by law.

ARTICLE 5

SPECIFIC AREAS OF CO-OPERATION

- (1) Recognising the high incidence of organised crime and the need for close co-operation in addressing the problem, the Parties shall provide for -
 - (a) the exchange of crime related information on a regular basis;
 - (b) the planning, co-ordination and execution of joint operations including covert operations;

- (c) co-operation in respect of crime prevention in border areas as well as in respect of follow-up operations;
- (d) the controlled delivery of illegal substances or any other object where the same may be necessary for combating crime; and
- (e) technical assistance and expertise where the same are required for the purposes of criminal investigations and crime prevention.

Provided that the provisions of Articles 3(3), 4(4) and 4(5) shall mutatis mutandis apply to a police official whilst present in the territory of the other Party in pursuance of the provisions of this Article.

- (2) Recognising the need for stolen property to be returned to its legal owner, the Parties shall with due regard to their respective laws relating to the disposal of such property, do their utmost to obtain this objective.
- (3) In order to promote such objective, the police service concerned undertakes to -
 - (a) make such arrangements as may be necessary to enable a complainant to identify his or her property; and
 - (b) advise such complainant as to which steps need to be taken to procure its return.

ARTICLE 6

OTHER MATTERS OF MUTUAL CONCERN

- (1) When the police service of a Party requests assistance or logistical support in connection with the execution of their functions from the police service of the other Party, such assistance and support shall be rendered if it is reasonably practicable and possible, but subject to the conditions set out in Article 8.
- (2) The police service of a Party shall, if so requested in writing by the police service of the other Party, render all reasonable advice, support or assistance to it in relation to the training of its officials, the improvement or development of its

organisation or administration or the promotion of its expertise with regard to the performance of police functions.

ARTICLE 7

LIABILITY

- (1) In the event of any legal proceedings being instituted in connection with the actions of a police official relating to this Agreement, each of the Parties shall be liable for the actions of its own police officials and in this regard the Parties hereby, subject to their respective municipal laws, indemnify each other against liability of whatsoever nature.
- (2) In the event of any loss or damages sustained by the police service of a Party or any police official acting in accordance with this Agreement, such loss or damages shall be borne by that police service or the police service of which such official is a member, as the case may be.

ARTICLE 8

EXPENSES

Any expenses incurred by a Party as result of a request in terms of this Agreement by the other Party, shall, upon receipt of proof of the expenses so incurred, be reimbursed by the other Party, unless the Parties have, in any particular case and in writing, agreed otherwise.

ARTICLE 9

AMENDMENT OF AGREEMENT

- (1) This agreement may be amended if the Parties agree thereto through the diplomatic channel by notice in writing.
- (2) Any Agreement agreed to by the Parties shall enter into force when the text thereof have been signed and sealed by the Parties.

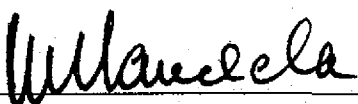
ARTICLE 10

ENTRY INTO FORCE AND TERMINATION

- (1) This Agreement shall enter into force on the _____ day of _____ 19____ and shall remain in force until terminated by either Party through the diplomatic channel by notice in writing of at least 6 months.

IN WITNESS WHEREOF the undersigned have signed and sealed this Agreement.

DONE at PRETORIA in two originals in English, on this10th day of AUGUST 1995.



NELSON ROLIHLAHLA MANDELA
PRESIDENT OF THE REPUBLIC OF
SOUTH AFRICA

FOR AND ON BEHALF OF
THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA



KING MSWATI III
KING OF THE KINGDOM
OF SWAZILAND

FOR AND ON BEHALF OF
THE GOVERNMENT OF THE
KINGDOM OF SWAZILAND