

NN



**MINISTRY: FINANCE
REPUBLIC OF SOUTH AFRICA**

Private Bag X115, Pretoria, 0001. Tel: +27 12 323 8911 Fax: +27 (12) 323 3262
P O Box 29, Cape Town 8000. Tel +27 21 464 6100 Fax +27 21 461 2934

Ref: M4/1/6(951/18)

N.F Shivambu MP

EFF Deputy President and Chief Whip

Office M442, 4th floor

Marks Building

Parliament of South Africa

CAPE TOWN

8000

***Minister's alleged involvement in the GUPTA capture and interference at the
Public Investment Corporation (PIC):***

Dear Honourable Shivambu

Your letter dated 22 May 2018 refers.

I would like to apologise that I am only responding to your letter now.

Before responding to the specific questions posed, it is important to clarify two important points, namely the role of the Deputy Minister in relation to the PIC and the delegations in terms of approvals of investment proposals at the PIC.

By virtue of being appointed as Deputy Minister of Finance, the incumbent serves as a Non-Executive Director and Chairperson of the Board of the PIC. The accompanying table provides clarity on the delegation of authority on investments.

Table1: PIC delegation of authority extracts – investments

Delegation of authority extracts – investments		
Approving Committee	Listed investments	Unlisted investments
Portfolio Management committee	Up to R10 billion (depending on exposure and structure)	Up to R500 million
Fund Investment Panel	N/A	> R500 million to R2 billion (Private Placement Memorandum PPMs)
Investment Committee	Above R10 billion	Up to R10 billion(including Unlisted debt and private placement)
Board	Above R10 billion (depending on the nature of the transaction)	Above R10 billion including Unlisted debt private placement
Client (GEPF)		Above R2 billion (PPM)
Social and Ethics Committee	Where there are some reputational Risk and Political Exposed Person (PEP) issues	Where there are some reputational Risk and PEP issues

In terms of the questions posed in your correspondence, my response is as follows:

1. During your tenure as Deputy Minister of Finance, did you meet with any member of the Gupta family?

Yes, I met some members of the Gupta family during government functions, specifically the dinner hosted by the Presidency after the presentation of the State of the Nation address. On one occasion, I was invited to tour the Midrand offices of Sahara Computer offices.

- 2. Did you discuss business dealing and particularly PIC funding with any member of the Gupta family?**

No. I was once approached regarding a transaction involving the Independent News media group that they were considering; I advised that they should contact the PIC directly in this regard.

- 3. Did you write a letter to the PIC instructing the Investment Committee to award a certain contract in favour of the Gupta business network?**

No. Table 1 sets out clearly the delegations in terms of investments decisions by the PIC.

- 4. As Minister of Finance, did members of the Gupta family contacted you to make follow up on the commitments you gave whilst Deputy Minister of Finance?**

No.

- 5. Have you ever been involved in negotiating business deals for people who needed funding from the PIC?**

In both my role as Minister of Finance and my previous position as Deputy Minister of Finance, I have been approached by numerous individuals and companies asking for my assistance in securing finance, specifically from the PIC. In all instances, these individuals and companies were informed that they should approach the PIC directly through its formal channels.

- 6. After being fired as Minister of Finance, which business dealings were you directly or indirectly involved in?**

Refer to response in 7.

7. Which boards did you sit in, and were you allocated any shares and, if yes, what is their worth and where?

a) I served in the following capacities:

- Resident advisor at Thebe Investments;
- Non-Executive Director of Allan Gray;
- Non-Executive Chairperson of Arise; and
- Acting Head of the Wits Business School.

b) When one of the shareholders sold its shareholding in Thebe Investments, I formed part of Thebe's management team that bought a portion of Absa's shareholding. I was appointed Minister of Finance this year before the details of this arrangement were concluded and am therefore not in a position to provide further details.

I trust you will find the above in order.

Kind regards



NHLANHLA NENE, MP

MINISTER OF FINANCE

DATE: 12/6/2018

NN



MINISTER
ENERGY
REPUBLIC OF SOUTH AFRICA



Private Bag X96, Pretoria 0001, 7th floor, 192 Visagie Street, C/o Visagie & Paul Kruger Street, Pretoria 0001. Tel: (+27 12) 406 7612, Fax: (+27 12) 323 5651
Private Bag X9111, Cape Town 8000, Parliamentary Building, 7th floor, 120 Plain Street, Cape Town 8000. Tel: (+27 21) 469 6425, Fax: (+27 21) 469 5980

Mr Llewellyn Claasen

Clerk of the Papers

Parliament of the Republic of South Africa

CAPE TOWN

8000



Dear Mr Llewellyn Claasen

TABLING OF THE INTERNATIONAL AGREEMENTS FOR THE DEPARTMENT OF ENERGY

I, Ms. Tina Joemat-Pettersson, the Minister of Energy hereby give Mr Malusi Ndlovu, Parliamentary Liaison Officer permission to submit the Department of Energy International Agreements in accordance with Section 231 (3) of the Constitution of the Republic of South Africa Act, 1996 (Act No 108 of 1996), for tabling in Parliament.

The remainder of the documents will be delivered to the Papers Stores in Parliament for further distribution.

The following International Agreements will be tabled:

1. Agreement between the Government of the Korea and the Government of the Republic of South Africa regarding Cooperation in the Peaceful Uses of Nuclear Energy;
2. Agreement for Cooperation between the Government of the Republic of South Africa and the United States of America concerning Peaceful Uses of Nuclear Energy;

3. Agreement between the Government of the Republic of South Africa and the Government of the Russian Federation on Strategic Partnership and Cooperation in the fields of Nuclear Power and Industry;
4. Agreement between the Government of the Republic of South Africa and the Government of the French Republic on Cooperation in the Development of Peaceful Uses of Nuclear Energy;
5. Agreement between the Government of the Republic of South Africa and the Government of the People's Republic of China on Cooperation in the field of Civil Nuclear Energy Projects;

Yours respectfully



(MS) TINA JOEMAT-PETTERSSON, MP
MINISTER OF ENERGY

DATE: 10/6/2015.



AGREEMENT

BETWEEN

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

AND

**THE GOVERNMENT OF THE
FRENCH REPUBLIC**

ON COOPERATION

**IN THE DEVELOPMENT OF PEACEFUL USES
OF NUCLEAR ENERGY**

The Government of the Republic of South Africa and the Government of the French Republic (hereinafter referred to as the "Parties" or a "Party");

AFFIRMING their determination to develop the traditional ties of friendship existing between the two countries;

NOTING with satisfaction the fruitful outcome of economic, technical and scientific cooperation between the two countries;

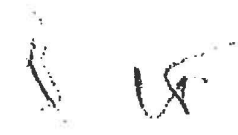
RECALLING the Agreement on Co-operation regarding the Koeberg Nuclear Power Units I and II, between France and South Africa and which entered into force on 29 October 1976, and the Agreement between the International Atomic Energy Agency, the Government of the French Republic and the Government of the Republic of South Africa for the Application of Safeguards to the Koeberg Nuclear Power Station and to the Nuclear Material to be used therein, and which entered into force on 16 December 1976;

CONSIDERING the Agreement on Cooperation in the Field of Energy, between France and South Africa and which entered into force on 28 February 2008;

NOTING that both Parties are IAEA Member States;

CONSIDERING the participation of the two states in the Nuclear Suppliers Group (hereinafter referred to as "the NSG");

RECOGNIZING the respective nuclear disarmament and non-proliferation commitments of the French Republic and the Republic of South Africa, particularly the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968 (hereinafter referred to as "the NPT") signed by the French Republic as a nuclear weapons State Party and by the Republic of South Africa as a non-nuclear weapons State Party, as well as the African Nuclear-Weapon-Free zone treaty (Pelindaba Treaty), done on 11 April 1996 and entered into force on 15 July 2009;



NOTING the Agreement for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons, which entered into force on 16 September 1991, and the Protocol Additional to the Agreement between the Government of the Republic of South Africa and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, which entered into force on 13 September 2002;

NOTING the Agreement of 27 July 1978 between France, the European Atomic Energy Community and the International Atomic Energy Agency for the Application of Safeguards in France, which entered into force on 12 September 1981, and the Protocol Additional to the Agreement between France, the European Atomic Energy Community and the International Atomic Energy Agency for the Application of Safeguards in France, which entered into force on 30 April 2004;

NOTING the Agreement between the Government of the Republic of South Africa and the European Atomic Energy Community (EURATOM) for Cooperation in the Peaceful Uses of Nuclear Energy, signed on 18 July 2013;

CONSIDERING further the determination of the Parties to adopt the provisions within their jurisdictions required for the safe and responsible development of nuclear energy in compliance with the principles and provisions under the Convention on Nuclear Safety, the Convention on the Physical Protection of Nuclear Material, the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, the Convention on Early Notification of a Nuclear Accident, and the Convention on Assistance in the case of Nuclear Accident or Radiological Emergency;

SEEKING to broaden and deepen the mutually beneficial economic scientific and technical cooperation between the two Parties on the basis of mutual respect for each other's internal affairs;

HEREBY AGREE as follows:




ARTICLE 1
DEFINITIONS

For the purposes of this Agreement:


- (a) "equipment" shall mean any facility, equipment, or component listed in sections 1 and 3 to 7 of Annex B of the NSG Guidelines;
- (b) "facilities" shall mean plants referred to in Annex B, sections 1, 3, 4, 5, 6 and 7 of the most recently published NSG Guidelines;
- (c) "Guidelines" shall mean the NSG Guidelines for Nuclear Transfers published by the IAEA under INFCIRC/254/Rev.10/Part1 and their subsequent amendments as agreed to by the Parties;
- (d) "information" shall mean any piece of information, documentation or data of whatever nature, which relates to material, equipment, facilities or technology subject to this Agreement, but excluding information, documentation and data accessible to the public;
- (e) "intellectual property" shall have the meaning given in Article 2 of the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on 14 July 1967, and which entered into force for South Africa on 23 March 1975 and for France on 18 October 1974;

The definition may be broadened as agreed by the Parties;

- (f) "material" shall mean non-nuclear material for reactors listed in Annex B of the NSG Guidelines;
 - (g) "nuclear material" shall mean any special fissionable material or source material in accordance with the definitions in Article XX of the Statute of the IAEA;
- 

- (h) "person" shall mean any individual or legal entity subject to the territorial jurisdiction of one of the Parties, but shall not include the Parties to this Agreement;
- (i) "technology" shall mean the specific information necessary for the "development", "production" or "use" of any item listed in Annex B of the NSG Guidelines as updated from time to time, except data made available to the public, for instance data published in reviews or books, or which have become available internationally without any restrictions on dissemination.

This information can either be in the form of "technical data" or of "technical assistance";

- (j) "development" shall mean all phases preceding "production", including studies, research pertaining to the design, assembly and tests of prototypes and as-built drawings;
 - (k) "production" shall mean all production phases;
 - (l) "use" shall mean operation, installation (including on-site installation), maintenance, repairs, refurbishing and overhauling;
 - (m) "technical assistance" may take different forms including instruction, skills, training, working knowledge, and consulting services;
 - (n) "technical data" may consist of tracings, diagrams, blue-prints, manuals and instructions written or recorded on other media such as disks, magnetic tapes or storage units;
 - (o) "use for peaceful purposes" shall mean peaceful and non-explosive applications.
- 

ARTICLE 2


OBJECTIVES

In accordance with this Agreement, the Parties shall, in compliance with the laws and regulations in force in each country and on the basis of mutual benefit, equality and reciprocity, develop and strengthen scientific, technical, industrial and economic cooperation in the field of peaceful uses of nuclear energy in accordance with the principal needs and priorities of their national nuclear programs and with the international agreements and commitments in the field of nuclear non-proliferation to which they are respectively parties.

ARTICLE 3

SCOPE OF COOPERATION

Cooperation mentioned in Article 2 may cover the following areas:

- (a) fundamental and applied research and development in the field of energy, not including the supply to research reactors of uranium enriched to twenty (20) per cent or more in the U 235 isotope;
 - (b) use of nuclear energy for electricity generation, including the design, construction, operation and decommissioning of nuclear power plants in the Republic of South Africa, with total installed capacity of about 9.6 GW, and the fabrication of nuclear fuel;
 - (c) nuclear spent fuel and radioactive waste management;
 - (d) nuclear safety, radiation protection and radiological environmental protection;
 - (e) accounting, control and physical protection of nuclear material;
 - (f) manufacturing and application of radioisotopes;
 - (g) radiation technology and its applications;
 - (h) controlled nuclear fusion, plasma physics and plasma technologies;
 - (i) exchange of information on legislation and regulation in the nuclear field;
- 

- (j) decommissioning and decontamination of and supply of equipment to sites and nuclear facilities;

or any other areas of cooperation agreed upon by the Parties.

ARTICLE 4 FORMS OF COOPERATION

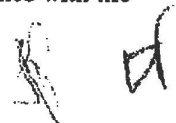
The cooperation stipulated in this Agreement may be undertaken in the following forms:

- (a) exchange of experts, scientific and technological information, organization of scientific seminars and conferences and training of administrative, scientific and technological personnel;
- (b) manufacturing and supply of material, nuclear material, equipment, facilities and related technologies (hereinafter referred to as "nuclear items and technologies") and services;
- (c) consultations on research and technological issues and performing joint research under programmes agreed by the Parties;

or any other form of cooperation agreed to by the Parties.

ARTICLE 5 IMPLEMENTATION OF THE AGREEMENT

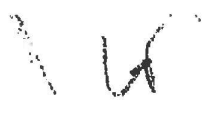
1. The Parties may agree on the participation of public or private organizations of the two States (hereinafter referred to as "organizations") in the implementation of cooperation under this Agreement.
2. The conditions of implementation of cooperation as defined in Articles 3 and 4 shall be specified on a case-by-case basis and in compliance with the provisions of this Agreement:



- (a) by specific agreements between the Parties or by arrangements between organizations designated by each of the Parties, for instance to specify the programmes and conditions of scientific and technical exchanges;
- (b) by contracts signed between organizations designated by each of the Parties on industrial developments and the supply of material, nuclear material, equipment, facilities or technology.

ARTICLE 6

COMPETENT AUTHORITIES

1. The Competent Authorities responsible for the implementation of this Agreement shall be:
 - (a) for the Government of the Republic of South Africa, the Department of Energy; and
 - (b) for the Government of the French Republic, the Ministry in charge of Energy;
 2. The Competent Authorities may agree to involve organizations of both countries to participate in the implementation of this Agreement.
 3. The Parties shall take the necessary measures to ensure the proper implementation of the Agreement as well as of specific agreements and contracts referred to in Article 5(2), in accordance with their respective laws, regulations and international obligations
- 

ARTICLE 7
ESTABLISHMENT OF A JOINT COORDINATING COMMITTEE
AND WORKING GROUPS


1. The Parties shall establish a Joint Coordinating Committee composed of the representatives appointed by the competent authorities to-
 - (a) review the implementation of this Agreement;
 - (b) to consider issues arising from its implementation and
 - (c) to hold consultations on issues of mutual interest related to the peaceful uses of nuclear energy.
2. The competencies and procedures of this Committee shall be defined jointly by the Competent Authorities.
3. The Joint Coordinating Committee meetings shall be held as necessary alternately in the French Republic and in the Republic of South Africa or as mutually agreed upon.
4. Each Party shall be responsible for its own travel and accommodation costs when attending meetings of the Joint Coordinating Committee.
5. The Competent Authorities may, if necessary, establish Working Groups to discuss further steps on implementing this Agreement and to exchange information on the progress of joint projects and programs and other issues of mutual interest.
6. Each Party shall bear the cost of participation in the Joint Coordinating Committee, subject to the limits of the budgets available to the Parties.

15

ARTICLE 8
SAFETY AND SECURITY

The Parties shall ensure in the cooperation carried out under this Agreement the achievement and maintenance of the highest level of nuclear safety and security in accordance with the principles and provisions of the Convention on Nuclear Safety, the Convention on the Physical Protection of Nuclear Material, the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency.


ARTICLE 9
PROTECTION OF INFORMATION

1. Information provided under this Agreement or resulting from the implementation thereof and treated by any Party in accordance with their national laws and regulations as sensitive or classified shall be clearly defined and marked as such.
 2. As cooperation develops, the Parties may consider the conclusion of a Security Agreement for the exchange of classified information, bearing in mind the following principles:
 - (a) The Parties shall protect the classified information and material to which they may have access under this Agreement in accordance with their respective national laws and regulations;
 - (b) The classified information and material shall only be sent through official channels or through agreed procedures between the Parties;
 - (c) No classified information or material received by one of the Parties under this Agreement may be in any way be transferred, disseminated or disclosed to third parties or to entities not authorized by the other Party and without its prior consent.
- 


ARTICLE 13
RESTRICTIONS

1. In accordance with this Agreement, the transfer of material, nuclear material, equipment, facilities and technologies referred to in Article 12 shall be performed in compliance with the commitments of the Parties under the Guidelines and other international agreements which are binding on the Parties.
2. Should one of the Parties consider the retransfer to a third State of material, nuclear material, equipment, facilities and technology referred to in Article 12, or the transfer of material, nuclear material, equipment and technology referred to in Article 12, originating from equipment or facilities transferred originally or produced by means of transferred equipment, facilities or technology, that Party shall only do so after having obtained the same assurances from the recipient of these transfers as those laid down by this Agreement and with the consent of the other Party. Retransfers beyond the jurisdiction of the Parties of material, nuclear material, equipment, facilities and technology transferred under this Agreement or derived from those originally transferred shall take place in accordance with the NSG Guidelines (INFCIRC/254/Rev.10 /Part.I), as amended, and respective legislation.
3. Within the European Union, transfers and retransfers of items and products are subject to Chapter IX of the Treaty of 25 March 1957 establishing the European Atomic Energy Community on the nuclear common market, without prejudice to the provisions of Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

ARTICLE 14
SAFEGUARDS

1. Nuclear material held or imported by the Republic of South Africa, and all successive generations of nuclear material recovered or produced as a by-product, shall be subject to safeguards by the IAEA under the terms of the Agreement signed by the Republic of South Africa and the IAEA on 16 September 1991, for Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, supplemented by an Additional Protocol which entered into force on 13 September 2002, which applies to all nuclear material in all nuclear activities carried out in the territory of the Republic of South Africa, under its jurisdiction or undertaken under its control wherever that may be.
 2. All nuclear material transferred to the French Republic under this Agreement and notified as such by the supplying Party, and nuclear material recovered or produced as a by-product, shall be managed in accordance with the provisions of Chapter 7 of the Euratom Treaty on Safeguards and of the Agreement between France, the European Atomic Energy Community and the IAEA for the application of Safeguards in France signed on 20 and 27 July 1978, as supplemented by the Additional Protocol signed on 22 September 1998.
 3. In the event of the IAEA Safeguards referred to in this Article of the Agreement not being applicable within the territory of either Party, the Parties shall undertake to consult each other with a view to subjecting, as soon as possible, nuclear material transferred or produced under this Agreement, and all successive generations of nuclear material recovered or produced as a by-product, to a mutually agreed Safeguards system, the effectiveness and scope of which being comparable to those previously applied by the IAEA for such nuclear material.
- 

ARTICLE 15
PHYSICAL PROTECTION

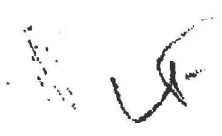
1. Each Party shall ensure that the material, nuclear material, equipment, facilities and technology referred to in Article 12 of this Agreement are exclusively held by persons under its jurisdiction and authorized to do so.
 2. Each Party shall ensure that, within its territory, or should the occasion arise, outside its territory up to the point where that responsibility is taken over by the other Party or by a third State, adequate measures are adopted to ensure the physical protection of the material, nuclear material, equipment and facilities referred to in this Agreement, in accordance with its national legislation and the international commitments to which it has subscribed.
 3. Physical protection shall be ensured with respect to material, nuclear material, equipment, facilities and technologies transferred in accordance with this Agreement as well as with regard to material, nuclear material, equipment, facilities and technologies derived from those originally transferred or as a result of the use thereof at a level not lower than the level set out in IAEA recommendations document INFCIRC/225/Rev.5 as well as in any subsequent amendments thereto accepted by the Parties.
 4. Under the three previous sub-Articles of this Article, each Party shall be responsible for the implementation and maintenance of physical protection measures in its territory.
 5. Amendments to IAEA recommendations relating to physical protection shall be effective under this Agreement only after mutual written notification of acceptance of such amendments by both Parties.
- 

ARTICLE 16
DURATION OF APPLICATION

1. Material, nuclear material, equipment, technologies and facilities referred to in Article 12 shall remain subject to this Agreement until:
 - (a) these items have been transferred beyond the jurisdiction of the receiving Party in accordance with the provisions of Article 13; or
 - (b) in this framework, a determination is made in the case of material, nuclear material, equipment, facilities and technologies that they are no longer usable nor practicably recoverable for processing into a form usable for any nuclear activity relevant as regards the safeguards referred to in Article 14 of this Agreement. Both Parties shall accept a determination made by the IAEA in accordance with the provisions for the termination of safeguards under the relevant Safeguards Agreements to which the IAEA is a party; or
 - (c) otherwise agreed upon by the Parties.
2. Technology shall remain subject to this Agreement until the Parties mutually agree otherwise.

ARTICLE 17
RIGHTS AND OBLIGATIONS UNDER OTHER AGREEMENTS

Nothing in this Agreement shall be interpreted as affecting the rights and obligations which, on the date of signature thereof, result from the participation of either Party in other international agreements on the use of nuclear energy for peaceful purposes, including, as regards the French Party, from its membership of the European Union and the European Atomic Energy Community and, as regards the South African Party, from its participation to the Euratom- South Africa Agreement signed on July 18, 2013.



ARTICLE 18
SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be settled amicably between the Parties through negotiations, consultation, mediation or conciliation.

ARTICLE 19
AMENDMENTS

This Agreement may be amended by mutual consent of the Parties through an Exchange of Notes between the Parties through the diplomatic channel. Such amendment shall enter into force on the date on which the Parties have notified each other in writing that their respective internal procedures required for its entry into force have been completed.

ARTICLE 20
ENTRY INTO FORCE, DURATION AND TERMINATION

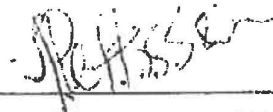
1. Both Parties shall notify each other in writing through the diplomatic channel of the completion of the internal procedures required to give effect to this Agreement. The date of entry into force shall be on the day the latest notification is received.
2. This Agreement shall remain in force for a period of 10 (ten) years, whereafter it shall automatically be renewed for successive ten-year periods. It may be terminated by either Party at any time giving six (6) months written notice in advance through the diplomatic channel of its intention to terminate this Agreement.
3. In the event of this Agreement expiring or being terminated in accordance with the procedure referred to in sub-Article (1) of this Article:



- the relevant provisions of this Agreement shall remain applicable to the specific agreements and contracts in force signed under Article 5, until expiration for whatever reason, unless otherwise mutually agreed to by the Parties;
- the provisions of Articles 8, 9, 10, 11, 12, 13, 14, 15 and 16 shall continue to apply to the material, nuclear material, equipment, facilities and technology referred to in Article 12 and transferred pursuant to this Agreement, as well as to nuclear material recovered or obtained as by-products.

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

DONE at Paris on this 14 day of October 2014.



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



**FOR THE GOVERNMENT OF
THE FRENCH REPUBLIC**



PRESIDENT'S MINUTE NO. 314

In terms of section 231 of the Constitution of the Republic of South Africa, 1996, I hereby approve that the attached Agreement between the Government of the Republic of South Africa and the Government of the French Republic on Cooperation in the Development of Peaceful Uses of Nuclear Energy be entered into, and I hereby authorise the Minister of Energy to sign the Agreement.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria on this 10 day of October, Two Thousand and Fourteen.

PRESIDENT

MINISTER OF ENERGY

81/172488
(Z.19E)



PRESIDENT'S MINUTE NO. 314

In terms of section 231 of the Constitution of the Republic of South Africa, 1996, I hereby approve that the attached Agreement between the Government of the Republic of South Africa and the Government of the French Republic on Cooperation in the Development of Peaceful Uses of Nuclear Energy be entered into, and I hereby authorise the Minister of Energy to sign the Agreement.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria on this 10 day of October Two Thousand and Fourteen.

A handwritten signature in black ink, appearing to be "J. Zuma", written over a circular stamp.

PRESIDENT

A handwritten signature in black ink, appearing to be "J. Motsoeneng", written over a circular stamp.

MINISTER OF THE CABINET

AGREEMENT
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF SOUTH
AFRICA
AND
THE GOVERNMENT OF THE FRENCH REPUBLIC
ON COOPERATION
IN THE DEVELOPMENT OF PEACEFUL USES OF
NUCLEAR ENERGY

STATE LAW ADVISER
(INTERNATIONAL LAW)

The Government of the French Republic and the Government of the Republic of South Africa (hereinafter referred to as the "Parties" or a "Party");

AFFIRMING their determination to develop the traditional ties of friendship existing between the two countries;

NOTING with satisfaction the fruitful outcome of economic, technical and scientific cooperation between the two countries;

RECALLING the Agreement on Co-operation regarding the Koeberg Nuclear Power Units I and II, between France and South Africa and which entered into force on 29 October 1976, and the Agreement between the International Atomic Energy Agency, the Government of the French Republic and the Government of the Republic of South Africa for the Application of Safeguards to the Koeberg Nuclear Power Station and to the Nuclear Material to be used therein, and which entered into force on 16 December 1976;

CONSIDERING the Agreement on Cooperation in the Field of Energy, between France and South Africa and which entered into force on 28 February 2008;

NOTING that both Parties are IAEA Member States;

CONSIDERING the participation of the two states in the Nuclear Suppliers Group (hereinafter referred to as "the NSG");

RECOGNIZING the respective nuclear disarmament and non-proliferation commitments of the French Republic and the Republic of South Africa, particularly the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968 (hereinafter referred to as "the NPT") signed by the French Republic as a nuclear weapons State Party and by the Republic of South Africa as a non-nuclear weapons State Party, as well as the African Nuclear-Weapon-Free zone treaty (Pelindaba Treaty), done on 11 April 1996 and entered into force on 15 July 2009;

NOTING the Agreement for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons, which entered into force on 16 September 1991, and the Protocol Additional to the Agreement between the Government of the Republic of South Africa and the International Atomic Energy Agency for the Application of

Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, which entered into force on 13 September 2002;

NOTING the Agreement of 27 July 1978 between France, the European Atomic Energy Community and the International Atomic Energy Agency for the Application of Safeguards in France, which entered into force on 12 September 1981, and the Protocol Additional to the Agreement between France, the European Atomic Energy Community and the International Atomic Energy Agency for the Application of Safeguards in France, which entered into force on 30 April 2004;

NOTING the Agreement between the Government of the Republic of South Africa and the European Atomic Energy Community (EURATOM) for Cooperation in the Peaceful Uses of Nuclear Energy, signed on 18 July 2013;

CONSIDERING further the determination of the Parties to adopt the provisions within their jurisdictions required for the safe and responsible development of nuclear energy in compliance with the principles and provisions under the Convention on Nuclear Safety, the Convention on the Physical Protection of Nuclear Material, the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, the Convention on Early Notification of a Nuclear Accident, and the Convention on Assistance in the case of Nuclear Accident or Radiological Emergency;

SEEKING to broaden and deepen the mutually beneficial economic scientific and technical cooperation between the two Parties on the basis of mutual respect for each other's internal affairs;

HEREBY AGREE as follows:

ARTICLE 1 DEFINITIONS

For the purposes of this Agreement:

- (a) "equipment" shall mean any facility, equipment, or component listed in sections 1 and 3 to 7 of Annex B of the NSG Guidelines;
- (b) "facilities" shall mean plants referred to in Annex B, sections 1, 3, 4, 5, 6 and 7 of the most recently published NSG Guidelines;
- (c) "Guidelines" shall mean the NSG Guidelines for Nuclear Transfers published by the IAEA under INFCIRC/254/Rev.10/Part I and their subsequent amendments as agreed to by the Parties;
- (d) "information" shall mean any piece of information, documentation or data of whatever nature, which relates to material, equipment, facilities or technology subject to this Agreement, but excluding information, documentation and data accessible to the public;
- (e) "intellectual property" shall have the meaning given in Article 2 of the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on 14 July 1967, and which entered into force for South Africa on 23 March 1975 and for France on 18 October 1974;

The definition may be broadened as agreed by the Parties;
- (f) "material" shall mean non-nuclear material for reactors listed in Annex B of the NSG Guidelines;
- (g) "nuclear material" shall mean any special fissionable material or source material in accordance with the definitions in Article XX of the Statute of the IAEA;
- (h) "person" shall mean any individual or legal entity subject to the territorial jurisdiction of one of the Parties, but shall not include the Parties to this Agreement;
- (i) "technology" shall mean the specific information necessary for the "development", "production" or "use" of any item listed in Annex B of the

NSG Guidelines as updated from time to time, except data made available to the public, for instance data published in reviews or books, or which have become available internationally without any restrictions on dissemination.

This information can either be in the form of "technical data" or of "technical assistance";

- (j) "development" shall mean all phases preceding "production", including studies, research pertaining to the design, assembly and tests of prototypes and as-built drawings;
- (k) "production" shall mean all production phases;
- (l) "use" shall mean operation, installation (including on-site installation), maintenance, repairs, refurbishing and overhauling;
- (m) "technical assistance" may take different forms including instruction, skills, training, working knowledge, and consulting services;
- (n) "technical data" may consist of tracings, diagrams, blue-prints, manuals and instructions written or recorded on other media such as disks, magnetic tapes or storage units;
- (o) "use for peaceful purposes" shall mean peaceful and non-explosive applications.

ARTICLE 2 OBJECTIVES

In accordance with this Agreement, the Parties shall, in compliance with the laws and regulations in force in each country and on the basis of mutual benefit, equality and reciprocity, develop and strengthen scientific, technical, industrial and economic cooperation in the field of peaceful uses of nuclear energy in accordance with the principal needs and

priorities of their national nuclear programs and with the international agreements and commitments in the field of nuclear non-proliferation to which they are respectively parties.

ARTICLE 3 SCOPE OF COOPERATION

Cooperation mentioned in Article 2 may cover the following areas:

- (a) fundamental and applied research and development in the field of energy, not including the supply to research reactors of uranium enriched to twenty (20) per cent or more in the U 235 isotope;
- (b) use of nuclear energy for electricity generation, including the design, construction, operation and decommissioning of nuclear power plants in the Republic of South Africa, with total installed capacity of about 9.6 GW, and the fabrication of nuclear fuel;
- (c) nuclear spent fuel and radioactive waste management;
- (d) nuclear safety, radiation protection and radiological environmental protection;
- (e) accounting, control and physical protection of nuclear material;
- (f) manufacturing and application of radioisotopes;
- (g) radiation technology and its applications;
- (h) controlled nuclear fusion, plasma physics and plasma technologies;
- (i) exchange of information on legislation and regulation in the nuclear field;
- (j) decommissioning and decontamination of and supply of equipment to sites and nuclear facilities;

or any other areas of cooperation agreed upon by the Parties.

ARTICLE 4 FORMS OF COOPERATION

The cooperation stipulated in this Agreement may be undertaken in the following forms:

- (a) exchange of experts, scientific and technological information, organization of scientific seminars and conferences and training of administrative, scientific and technological personnel;
- (b) manufacturing and supply of material, nuclear material, equipment, facilities and related technologies (hereinafter referred to as "nuclear items and technologies") and services;
- (c) consultations on research and technological issues and performing joint research under programmes agreed by the Parties;

or any other form of cooperation agreed to by the Parties.

ARTICLE 5

IMPLEMENTATION OF THE AGREEMENT

1. The Parties may agree on the participation of public or private organizations of the two States (hereinafter referred to as "organizations") in the implementation of cooperation under this Agreement.
2. The conditions of implementation of cooperation as defined in Articles 3 and 4 shall be specified on a case-by-case basis and in compliance with the provisions of this Agreement:
 - (a) by specific agreements between the Parties or by arrangements between organizations designated by each of the Parties, for instance to specify the programmes and conditions of scientific and technical exchanges;
 - (b) by contracts signed between organizations designated by each of the Parties on industrial developments and the supply of material, nuclear material, equipment, facilities or technology.

ARTICLE 6

COMPETENT AUTHORITIES

1. The Competent Authorities responsible for the implementation of this Agreement shall be:
 - (a) for the Government of the Republic of South Africa, the Department of Energy; and
 - (b) for the Government of the French Republic, the Ministry in charge of Energy;
2. The Competent Authorities may agree to involve organizations of both countries to participate in the implementation of this Agreement.
3. The Parties shall take the necessary measures to ensure the proper implementation of the Agreement as well as of specific agreements and contracts referred to in Article 5(2), in accordance with their respective laws, regulations and international obligations

ARTICLE 7
ESTABLISHMENT OF A JOINT COORDINATING COMMITTEE
AND WORKING GROUPS

1. The Parties shall establish a Joint Coordinating Committee composed of the representatives appointed by the competent authorities to:
 - (a) review the implementation of this Agreement;
 - (b) to consider issues arising from its implementation and
 - (c) to hold consultations on issues of mutual interest related to the peaceful uses of nuclear energy.
2. The competencies and procedures of this Committee shall be defined jointly by the Competent Authorities.
3. The Joint Coordinating Committee meetings shall be held as necessary alternately in the French Republic and in the Republic of South Africa or as mutually agreed upon.
4. Each Party shall be responsible for its own travel and accommodation costs when attending meetings of the Joint Coordinating Committee.

- 5 The Competent Authorities may, if necessary, establish Working Groups to discuss further steps on implementing this Agreement and to exchange information on the progress of joint projects and programs and other issues of mutual interest.
6. Each Party shall bear the cost of participation in the Joint Coordinating Committee, subject to the limits of the budgets available to the Parties.

ARTICLE 8 SAFETY AND SECURITY

The Parties shall ensure in the cooperation carried out under this Agreement the achievement and maintenance of the highest level of nuclear safety and security in accordance with the principles and provisions of the Convention on Nuclear Safety, the Convention on the Physical Protection of Nuclear Material, the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency.

ARTICLE 9 PROTECTION OF INFORMATION

1. Information provided under this Agreement or resulting from the implementation thereof and treated by any Party in accordance with their national laws and regulations as sensitive or classified shall be clearly defined and marked as such.
2. As cooperation develops, the Parties may consider the conclusion of a Security Agreement for the exchange of classified information, bearing in mind the following principles:
 - (a) The Parties shall protect the classified information and material to which they may have access under this Agreement in accordance with their respective national laws and regulations;
 - (b) The classified information and material shall only be sent through official channels or through agreed procedures between the Parties;



- (c) No classified information or material received by one of the Parties under this Agreement may be in any way be transferred, disseminated or disclosed to third parties or to entities not authorized by the other Party and without its prior consent.

ARTICLE 10

INTELLECTUAL PROPERTY

The intellectual property rights gained through the cooperation provided by this Agreement shall be allocated on a case-by-case basis under the specific agreements and contracts referred to in Article 5 of this Agreement.

ARTICLE 11

CIVIL NUCLEAR LIABILITY

The Parties shall ensure that a civil nuclear liability regime is set up in their respective jurisdictions in accordance with the internationally established principles, including:

- (a) exclusive liability of operators of nuclear facilities;
- (b) objective liability of the operator (i.e. liability even in the absence of fault);
- (c) liability limited in amount and duration, covered by a financial guarantee or insurance, where necessary complemented by the State;
- (d) unique and exclusive jurisdiction of the courts of the Party in whose territory the accident occurred to hear claims;
- (e) non-discriminating nature of compensation (all damage to persons and property must be covered, except the installation itself and the items therein).

ARTICLE 12

PEACEFUL PURPOSES

The Parties shall ensure that material, nuclear material, equipment, facilities and technology transferred under this Agreement or under arrangements entered into under

this Agreement, as well as the nuclear material recovered or obtained as by-products, are used for peaceful purposes only.

ARTICLE 13 RESTRICTIONS

1. In accordance with this Agreement, the transfer of material, nuclear material, equipment, facilities and technologies referred to in Article 12 shall be performed in compliance with the commitments of the Parties under the Guidelines and other international agreements which are binding on the Parties.
2. Should one of the Parties consider the retransfer to a third State of material, nuclear material, equipment, facilities and technology referred to in Article 12, or the transfer of material, nuclear material, equipment and technology referred to in Article 12, originating from equipment or facilities transferred originally or produced by means of transferred equipment, facilities or technology, that Party shall only do so after having obtained the same assurances from the recipient of these transfers as those laid down by this Agreement and with the consent of the other Party. Retransfers beyond the jurisdiction of the Parties of material, nuclear material, equipment, facilities and technology transferred under this Agreement or derived from those originally transferred shall take place in accordance with the NSG Guidelines (INFCIRC/254/Rev.10 /Part.I), as amended, and respective legislation.
3. Within the European Union, transfers and retransfers of items and products are subject to Chapter IX of the Treaty of 25 March 1957 establishing the European Atomic Energy Community on the nuclear common market, without prejudice to the provisions of Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

ARTICLE 14 SAFEGUARDS

1. Nuclear material held or imported by the Republic of South Africa, and all successive generations of nuclear material recovered or produced as a by-product, shall be subject to safeguards by the IAEA under the terms of the Agreement signed by the Republic of South Africa and the IAEA on 16 September 1991, for Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, supplemented by an Additional Protocol which entered into force on 13 September 2002, which applies to all nuclear material in all nuclear activities carried out in the territory of the Republic of South Africa, under its jurisdiction or undertaken under its control wherever that may be.
2. All nuclear material transferred to the French Republic under this Agreement and notified as such by the supplying Party, and nuclear material recovered or produced as a by-product, shall be managed in accordance with the provisions of Chapter 7 of the Euratom Treaty on Safeguards and of the Agreement between France, the European Atomic Energy Community and the IAEA for the application of Safeguards in France signed on 20 and 27 July 1978, as supplemented by the Additional Protocol signed on 22 September 1998.
3. In the event of the IAEA Safeguards referred to in this Article of the Agreement not being applicable within the territory of either Party, the Parties shall undertake to consult each other with a view to subjecting, as soon as possible, nuclear material transferred or produced under this Agreement, and all successive generations of nuclear material recovered or produced as a by-product, to a mutually agreed Safeguards system, the effectiveness and scope of which being comparable to those previously applied by the IAEA for such nuclear material.

ARTICLE 15 PHYSICAL PROTECTION

1. Each Party shall ensure that the material, nuclear material, equipment, facilities and technology referred to in Article 12 of this Agreement are exclusively held by persons under its jurisdiction and authorized to do so.

2. Each Party shall ensure that, within its territory, or should the occasion arise, outside its territory up to the point where that responsibility is taken over by the other Party or by a third State, adequate measures are adopted to ensure the physical protection of the material, nuclear material, equipment and facilities referred to in this Agreement, in accordance with its national legislation and the international commitments to which it has subscribed.
3. Physical protection shall be ensured with respect to material, nuclear material, equipment, facilities and technologies transferred in accordance with this Agreement as well as with regard to material, nuclear material, equipment, facilities and technologies derived from those originally transferred or as a result of the use thereof at a level not lower than the level set out in IAEA recommendations document INFCIRC/225/Rev.5 as well as in any subsequent amendments thereto accepted by the Parties.
4. Under the three previous sub-Articles of this Article, each Party shall be responsible for the implementation and maintenance of physical protection measures in its territory.
5. Amendments to IAEA recommendations relating to physical protection shall be effective under this Agreement only after mutual written notification of acceptance of such amendments by both Parties.

ARTICLE 16 DURATION OF APPLICATION

1. Material, nuclear material, equipment, technologies and facilities referred to in Article 12 shall remain subject to this Agreement until:
 - (a) these items have been transferred beyond the jurisdiction of the receiving Party in accordance with the provisions of Article 13; or
 - (b) in this framework, a determination is made in the case of material, nuclear material, equipment, facilities and technologies that they are no longer usable nor practicably recoverable for processing into a form usable for any nuclear

activity relevant as regards the safeguards referred to in Article 14 of this Agreement. Both Parties shall accept a determination made by the IAEA in accordance with the provisions for the termination of safeguards under the relevant Safeguards Agreements to which the IAEA is a party; or

(c) otherwise agreed upon by the Parties.

2. Technology shall remain subject to this Agreement until the Parties mutually agree otherwise.

ARTICLE 17

RIGHTS AND OBLIGATIONS UNDER OTHER AGREEMENTS

Nothing in this Agreement shall be interpreted as affecting the rights and obligations which, on the date of signature thereof, result from the participation of either Party in other international agreements on the use of nuclear energy for peaceful purposes, including, as regards the French Party, from its membership of the European Union and the European Atomic Energy Community and, as regards the South African Party, from its participation to the Euratom- South Africa Agreement signed on July 18, 2013.

ARTICLE 18

SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be settled amicably between the Parties through negotiations, consultation, mediation or conciliation.

ARTICLE 19

AMENDMENTS

This Agreement may be amended by mutual consent of the Parties through an Exchange of Notes between the Parties through the diplomatic channel. Such amendment shall enter into

14 

force on the date on which the Parties have notified each other in writing that their respective internal procedures required for its entry into force have been completed.

ARTICLE 20

ENTRY INTO FORCE, DURATION AND TERMINATION

1. Both Parties shall notify each other in writing through the diplomatic channel of the completion of the internal procedures required to give effect to this Agreement. The date of entry into force shall be on the day the latest notification is received.
2. This Agreement shall remain in force for a period of 10 (ten) years, where-after it shall automatically be renewed for successive ten-year periods. It may be terminated by either Party at any time giving six (6) months written notice in advance through the diplomatic channel of its intention to terminate this Agreement.
3. In the event of this Agreement expiring or being terminated in accordance with the procedure referred to in sub-Article (1) of this Article:
 - the relevant provisions of this Agreement shall remain applicable to the specific agreements and contracts in force signed under Article 5, until expiration for whatever reason, unless otherwise mutually agreed to by the Parties;
 - the provisions of Articles 8, 9, 10, 11, 12, 13, 14, 15 and 16 shall continue to apply to the material, nuclear material, equipment, facilities and technology referred to in Article 12 and transferred pursuant to this Agreement, as well as to nuclear material recovered or obtained as by-products.

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

DONE aton this.....day of..... 2014.

FOR THE GOVERNMENT OF
THE FRENCH REPUBLIC

FOR THE GOVERNMENT OF
THE REPUBLIC OF SOUTH AFRICA

AGREEMENT
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF KOREA
AND
THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA
REGARDING COOPERATION
IN THE PEACEFUL USES OF NUCLEAR ENERGY

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

~~TAKING into account the friendly relations and cooperation existing between the two countries;~~

~~NOTING with satisfaction the fruitful outcome of economic, technical and scientific cooperation between the two countries;~~

RECOGNISING that the Parties are Member States of the International Atomic Energy Agency (hereinafter referred to as "the IAEA") and also Parties to the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968 (hereinafter referred to as "the NPT"); and

SEEKING further to broaden and deepen the mutually beneficial economic, scientific and technical cooperation between the two Parties on the basis of mutual respect for each other's internal affairs;

HEREBY AGREE as follows:

ARTICLE 1 DEFINITIONS

In this Agreement, unless the context indicates otherwise:

- (a) "classified information" refers to information categorised in terms of information security requirements;
- (b) "Guidelines" means the Guidelines for Nuclear Transfers published in the IAEA document INFCIRC/254/Rev. 9/Part 1 and its subsequent revisions and modifications as agreed to by the Parties;

(c) "equipment" means any facilities, equipment, or component listed in Annex B of the Guidelines;

(d) "intellectual property" has the meaning given in Article 2 of the Convention Establishing the World Intellectual Property Organisation, signed at Stockholm on 14 July 1967;

(e) "materials" means non-nuclear material for reactors listed in Annex B of the Guidelines;

(f) "nuclear material" means any source material or any special fissionable material as these terms are defined in Annex A of the Guidelines;

(g) "person" means any individual, corporation, partnership, firm or company, association, trust, public or private institute, group, governmental agency or corporation, but does not include the Parties to this Agreement; and

(h) "technology" means specific information required for the development, production, or use of any equipment or material as defined in Annex A of the Guidelines.

ARTICLE 2

OBJECTIVES

The Parties shall, on the basis of mutual benefit, equality and reciprocity, develop and strengthen scientific, technical and economic cooperation in the field of peaceful uses of nuclear energy in accordance with the needs and priorities of their national nuclear programs.

ARTICLE 3

AREAS OF COOPERATION

The Parties shall in terms of this Agreement cooperate in the following areas:

(a) fundamental and applied research and development in the field of nuclear power engineering;

- (b) design, construction, operation and modernization of nuclear power plants and commercial and research nuclear reactors;
- (c) use of nuclear energy for electricity generation, heating and desalination of salt water and nuclear research;
- ~~(d) exploration and mining of uranium;~~
- ~~(e) fuel manufacture for commercial and research reactors including fuel development and design, construction, operation, technology and modernization of fuel fabrication facilities;~~
- ~~(f) radioactive waste management;~~
- (g) development, manufacturing and supply of components and materials, including nuclear material (source material and special fissionable material) to be used in nuclear reactors and their nuclear cycles;
- (h) nuclear safety, radiation protection and radiological environmental protection;
- (i) accounting, control and physical protection of nuclear materials;
- (j) manufacturing and application of radioisotopes;
- (k) radiation technology and its applications;
- (l) controlled nuclear fusion, plasma physics and plasma technologies;
- (m) state regulation of nuclear and radiation safety;
- (n) decommissioning and decontamination of nuclear facilities; and
- (o) other areas of cooperation to be agreed upon by the Parties.

ARTICLE 4 MODE OF COOPERATION

The cooperation stipulated in this Agreement may be undertaken in the following forms:

- (a) exchange of experts, scientific and technological information, organization of scientific seminars and conferences and training of administrative, scientific and technological personnel;
- (b) the establishment of joint working groups in terms of paragraph 3 of Article 6 of this Agreement, if necessary, to implement specific studies and projects

in the area of scientific research and technological development;

(c) the supply of nuclear material, non-nuclear material, equipment, facilities and related technologies (hereinafter referred to as "nuclear items and technologies");

~~(d) consultations on research and technological issues and performing joint research under agreed programs; and~~

(e) other forms of cooperation to be agreed upon by the Parties.

ARTICLE 5

COMPETENT AUTHORITIES

1. The Competent Authorities responsible for the implementation of this Agreement shall be:

- (a) in the case of the Government of the Republic of Korea, the Ministry of Education, Science and Technology; and
- (b) in the case of the Government of the Republic of South Africa, the Department of Energy.

2. The Competent Authorities may agree to involve state and private organizations of both countries to participate in the implementation of this Agreement.

ARTICLE 6

ESTABLISHMENT OF A JOINT COORDINATING COMMITTEE AND WORKING GROUP

1. The Parties shall establish a Joint Coordinating Committee composed of the representatives designated by the Competent Authorities to review the implementation of this Agreement, to consider issues arising from its implementation and to hold consultations on issues of mutual interest related to the peaceful uses of nuclear energy.

2. The Joint Coordinating Committee meetings shall be held as necessary alternately in the Republic of South Africa and in the Republic of Korea as mutually agreed upon.

~~3. The Competent Authorities may, if necessary, establish Working Groups to discuss further steps on implementing this Agreement and to exchange information on the progress of joint projects and programs and other issues of mutual interest.~~

ARTICLE 7

PROTECTION OF INFORMATION

1. Classified information of the Parties shall not be exchanged under this Agreement.

2. Information provided under this Agreement or resulting from the implementation thereof and treated by any Party as sensitive or confidential shall be clearly defined and marked as such.

3. In accordance with the domestic laws of the Parties, the information referred to in paragraph 2 of this Article shall be treated as confidential.

4. Sensitive or confidential information shall be handled in accordance with the domestic laws of the receiving Party; and such information shall not be disclosed or transferred to a third party, which is not participating in the implementation of this Agreement, without the written consent of the sending Party.

5. In accordance with the domestic laws, the Parties shall provide for the effective protection and distribution of the rights to the intellectual property transferred or created under this Agreement, including its ownership and legal use. The issues of protection and distribution of Intellectual Property Rights including protection of a third party's legitimate rights, taking into full consideration the equitable portion of ownership based on the contribution of the respective participants, shall be regulated by the Agreement concluded by the Parties.

ARTICLE 8 RESTRICTIONS

1. In terms of this Agreement, the export of nuclear items and technologies shall be performed in accordance with the commitments of the Parties under the Guidelines for Nuclear Suppliers Group and other international agreements which are binding on the Parties.

2. The Parties shall ensure that nuclear items and technologies received in accordance with this Agreement as well as nuclear items and technologies produced on the basis thereof or as the result of their utilization shall:

- (a) not be used for the research on the development and the manufacture of nuclear weapons and other nuclear explosive devices or for any military purposes; and
- (b) not be transferred to an unauthorized person or, unless the Parties agree in writing, beyond the jurisdiction of the receiving Party.

ARTICLE 9 SAFEGUARDS

1. Nuclear material transferred to the Republic of South Africa pursuant to this Agreement and any nuclear material produced through the utilization of any material, equipment, or technologies so transferred shall be subject to the terms of the Agreement between the Government of the Republic of South Africa and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons signed on 16 September, 1991 as complemented by the additional protocol.

2. Nuclear material transferred to the Republic of Korea pursuant to this Agreement and any nuclear material produced through the utilization of any material, equipment,

or technologies transferred shall be subject to the terms of the Agreement between the Government of the Republic of Korea and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons signed on 31 October, 1975 as complemented by the additional protocol.

3. If, for any reason or at any time, the IAEA is not administering such safeguards within the jurisdiction of a Party, that Party shall forthwith enter into arrangements with the other Party which conform to IAEA safeguards principles and procedures for the application of safeguards to nuclear material transferred pursuant to this Agreement.

ARTICLE 10 PHYSICAL PROTECTION

1. Physical protection shall be maintained with respect to nuclear materials and equipment transferred in accordance with this Agreement as well as with regard to nuclear materials and equipment produced on the basis thereof or as a result of the utilization thereof at a level not lower than the level set out in the IAEA document INFCIRC/225/Rev. 4 as well as in any subsequent amendments thereto accepted by the Parties.

2. Each Party shall be responsible for the implementation and maintenance of physical protection measures on its territory.

ARTICLE 11 DURATION OF APPLICATION

1. Nuclear material, material and equipment shall remain subject to this Agreement until:

- (a) such items have been transferred beyond the jurisdiction of the receiving Party in accordance with the provisions of Article 8;
- (b) a determination is made, in the case of nuclear material, that it is no longer usable nor practicably recoverable for processing into a form in which it is usable for any nuclear activity relevant from the point of view of safeguards referred to in Article 9 of this Agreement. Both Parties shall accept a determination made by the IAEA in accordance with the provisions for the termination of safeguards in terms of the relevant safeguards agreements to which the IAEA is a party; or
- (c) otherwise agreed upon by the Parties.

2. Technology shall remain subject to this Agreement until the Parties otherwise agree.

ARTICLE 12

SETTLEMENT OF DISPUTES

Any dispute between the Parties arising out of the interpretation, application or implementation of this Agreement shall be settled amicably through negotiations or consultation between the Parties.

ARTICLE 13

AMENDMENTS

This Agreement may be amended by mutual consent of the Parties through an Exchange of Notes between the Parties through the diplomatic channel.

ARTICLE 14

ENTRY INTO FORCE, DURATION AND TERMINATION

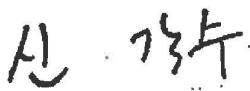
1. This Agreement shall enter into force on the date on which both Parties have notified each other in writing through the diplomatic channel of its compliance with the constitutional requirements necessary for the implementation of this Agreement. The date of entry into force shall be the date of the last notification.

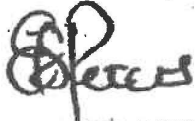
~~2. This Agreement shall remain in force for a period of five (5) years, where after it shall automatically be renewed for successive five-year periods. It may be terminated by either Party at any time giving six (6) months written notice in advance through the diplomatic channel of its intention to terminate this Agreement.~~

3. Notwithstanding termination of this Agreement, the obligations and implementing arrangements contained in this Agreement shall remain in force until otherwise agreed to by the Parties.

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

DONE at Seoul on this 8th day of October 2010.


FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA


FOR THE GOVERNMENT OF
THE REPUBLIC OF SOUTH AFRICA

남아프리카공화국 정부와 대한민국 정부 간의
원자력의 평화적 이용에 관한 협력을 위한 협정

남아프리카공화국 정부와 대한민국 정부(이하 복수로는 “당사자들”, 단수로는 “당사자”라 한다)는,

양국 간의 기존의 우호 관계와 협력을 고려하고,

양국 간의 경제, 기술 및 과학 협력의 뛰어난 성과를 긍정적으로 주목하며,

당사자들이 국제원자력기구(이하 “IAEA”라 한다)의 회원국이고, 1968년 7월 1일 체결된 「핵무기의 비확산에 관한 조약」(이하 “핵비확산조약”이라 한다)의 당사자들임을 인식하고,

각자의 국내 문제에 대한 상호 존중을 바탕으로 양 당사자 간의 호혜적인 경제, 과학 및 기술 협력을 확대하고 강화하고자,

다음과 같이 합의하였다.

제 1 조

정의

이 협정에서 문맥상 달리 의미하지 않는다면:

- 가. “비밀 정보”란 정보 보안 요건에 따라 분류된 정보를 가리킨다.
- 나. “지침”이란 IAEA의 문서 INFCIRC/254/Rev.9/Part 1에서 발간된 원자력 이전을 위한 지침 및 당사자들이 합의한 그 후속 개정 및 수정본을 말한다.
- 다. “장비”란 지침의 “부속서 나”에 열거된 모든 시설, 장비 또는 부품을 말한다.
- 라. “지식재산권”은 1967년 7월 14일 스톡홀름에서 서명된 「세계지적소유권기구 설립협약」 제2조에서 주어진 의미를 가진다.
- 마. “물질”이란 지침의 “부속서 나”에 열거된 원자로용 비핵물질을 말한다.
- 바. “핵물질”이란 지침의 “부속서 가”에서 정의된 바와 같이 모든 원료 물

질 또는 특수해분열성물질을 말한다.

사. "자(者)"란 모든 개인, 법인, 조합, 상사 또는 회사, 사단, 신탁, 공공 또는 민간 기구, 단체, 정부 기관 또는 공사를 말하며, 이 협정의 당사자들은 이에 포함되지 아니한다.

아. "기술"이란 자침의 부속서 가에서 정의된 바와 같이 모든 장비 또는 물질의 개발, 생산 또는 이용에 필요한 특정 정보를 말한다.

제 2 조

목적

당사자들은 호혜, 평등 및 상호주의에 기초하여 국가 원자력 프로그램의 필요와 우선순위에 따라 원자력의 평화적 이용 분야에서 과학, 기술 및 경제 협력을 발전시키고 강화한다.

제 3 조

협력 분야

당사자들은 이 협정에 따라 다음의 분야에서 협력한다.

- 가. 원자력 중학 분야의 기초 및 응용 연구와 개발
- 나. 원자력 발전소의 상업용 및 연구용 원자로의 설계, 건설, 운영 및 최산화
- 다. 발전, 열수 자열 및 담수화와 핵 연구를 위한 원자력 사용
- 라. 우라늄 탐사 및 채취
- 마. 연료 개발과 연료 가공시설의 설계, 건설, 운영, 기술 및 최산화를 포함하여 상업용 및 연구용 원자로를 위한 연료 제조
- 바. 방사성 폐기물 관리
- 사. 원자로와 그 핵주기에 사용될 핵물질(원료 물질과 특수해분열성물질)을 포함하는 부품과 물질의 개발, 제조 및 공급
- 아. 원자력 안전, 방사선 방호 및 방사선 환경 방호
- 자. 핵물질의 계량, 통제 및 물리적 방호

- 차. 방사성 동위원소의 제조 및 응용
- 카. 방사선 기술 및 그 응용
- 타. 제어 핵융합, 플라즈마 물리 및 플라즈마 기술
- 파. 원자력 및 방사선 안전 관련 정부 규제
- 하. 원자력 시설의 해체 및 폐염

거. 당사자들이 합의하는 그 밖의 협력 분야

제 4 조

협력 방식

이 협정에 규정된 협력은 다음의 형태로 수행될 수 있다.

- 가. 전문가 및 과학·기술 정보의 교환, 과학 세미나 및 회의의 개최, 행정·과학 및 기술 인력의 훈련
- 나. 필요 시 과학 연구와 기술 개발 분야의 특별 연구 및 프로젝트 수행을 위하여 이 협정 제6조제3항에 따른 공동 작업단 설립
- 다. 핵물질, 비핵물질, 장비, 시설 및 관련 기술(이하 “원자력 품목 및 기술”이라 한다)의 공급
- 라. 연구와 기술 문제에 대한 협의와 합의된 프로그램에 따른 공동 연구의 수행
- 마. 당사자들이 합의하는 그 밖의 형태의 협력

제 5 조

권한 있는 당국

1. 이 협정의 이행을 책임지는 권한 있는 당국은 다음과 같다.
 - 가. 대한민국 정부의 경우 교육과학기술부
 - 나. 남아프리카공화국 정부의 경우 에너지부
2. 권한 있는 당국은 이 협정의 이행에 양국의 정부와 민간 기관이 참여하도록

를 합의할 수 있다.

제 6 조

공동조정위원회 및 작업반의 설치

1. 당사자들은 이 협정의 이행을 검토하고, 이 협정의 이행에서 야기되는 문제들을 심의하며, 원자력의 평화적 이용과 관련된 상호 관심 사항을 협의하기 위하여 권한 있는 당국이 지명하는 대표들로 구성된 공동조정위원회를 설치한다.

2. 공동조정위원회 회의는 상호 합의에 의하여 필요에 따라 대한민국과 남아프리카공화국에서 번갈아 개최된다.

3. 권한 있는 당국은 필요 시 이 협정 이행의 추가 조치를 논의하고 공동 프로젝트와 프로그램의 진전 및 다른 상호 관심 사항에 대한 정보를 교환하기 위하여 작업반을 설치할 수 있다.

제 7 조

정보 보호

1. 당사자들의 비밀 정보는 이 협정에 따라 교환되자 아니한다.

2. 이 협정에 따라 제공되거나 그 이행의 결과로 생성된 정보로서 어느 당사자가 민감하거나 비밀로 취급하는 정보는 그러한 것으로 명확하게 정의되고 명시되어야 한다.

3. 이 조 제2항에 언급된 정보는 당사자들의 국내법에 따라 비밀로 취급된다.

4. 민감하거나 비밀인 정보는 접수 당사자의 국내법에 따라 처리된다. 그리고 이러한 정보는 제공 당사자의 서면 동의 없이는 이 협정의 이행에 참여하지

않는 제삼자에게 공개되거나 이전되지 아니한다.

5. 당사자들은 국내법에 따라 그 소유권과 법적 사용을 포함하여 이 협정에 따라 이전되거나 발생하는 지식재산권에 대한 효과적인 보호와 분배를 규정한다. 제삼자와 정당한 권리 보호를 포함한 지식재산권의 보호 및 분배 문제는 각 참여자의 사역도에 기초한 소유권의 공평한 몫을 충분히 고려하여 당사자들이 체결한 협정에 따라 규율된다.

제 8 조

제한

1. 이 협정과 관련하여, 원자력 품목 및 기술의 수출은 「원자력 공급국 그 품을 위한 지침」 및 당사자들을 구속하는 다른 국제적 합의에 따른 당사자들의 약속에 따라 수행된다.

2. 당사자들은 이 협정에 따라 접수된 원자력 품목 및 기술에 대해서뿐만 아니라 그것에 기초하거나 그 이용의 결과로 생산된 원자력 품목 및 기술에 대해서도 다음을 보장한다.

- 가. 핵무기 및 다른 핵폭발장치의 개발과 제조에 대한 연구나 어떠한 군사적 목적을 위해서도 사용되차 아니할 것
- 나. 허가받지 아니한 자에게 또는 당사자들이 서면으로 동의하지 않는 한 접수 당사자의 관할권 밖으로 이전되지 아니할 것

제 9 조

안전조치

1. 이 협정에 따라 남아프리카공화국에 이전된 핵물질과 그렇게 이전된 물질, 장비 또는 기술을 이용하여 생산된 모든 핵물질은 1991년 9월 16일 서명되고, 추가의정서에 의해 보완된 「남아프리카공화국 정부와 국제원자력기구 간의 핵무

기의 비확산에 관한 조약과 관련된 안전조치의 적용을 위한 협정」 규정의 적용을 받는다.

2. 이 협정에 따라 대한민국에 이전된 핵물질과 이전된 물질, 장비 또는 기술을 이용하여 생산된 모든 핵물질은 1975년 10월 31일 서명되고, 추가의정서에 의해 보완된 「대한민국 정부와 국제원자력기구 간의 핵무기의 비확산에 관한 조약에 관련된 안전조치의 적용을 위한 협정」 규정의 적용을 받는다.

3. 사유나 시기를 불문하고 IAEA가 한쪽 당사자의 관할권 내에서 그러한 안전조치를 시행하지 아니하는 경우 그 당사자는 즉시 다른 쪽 당사자와 이 협정에 따라 이전되는 핵물질에 대한 안전조치의 적용을 위하여 IAEA의 안전조치 원칙 및 절차에 부합하는 약정을 체결한다.

제 10 조 물리적 방호

1. 물리적 방호는 이 협정에 따라 이전된 핵물질 및 장비에 대해서뿐만 아니라 그것에 기초하거나 그 이용의 결과로 생성된 핵물질 및 장비에 대해서도 IAEA의 문서 INFCIRC/225/Rev.4 및 당사자들이 수락한 모든 후속 개정에 규정된 수준보다 낮지 않은 수준으로 유지되어야 한다.

2. 각 당사자는 그 영역에서 물리적 방호 조치의 이행과 유지에 대한 책임을 진다.

제 11 조 적용 기간

1. 핵물질, 물질 및 장비는 아래의 시점까지 이 협정의 적용을 받는다.
가. 그러한 품목이 제8조에 따라 철수 당사자의 관할권 밖으로 이전될 때

까지

나. 핵물질의 경우, 이 협정 제9조에 언급된 안전조치의 관점에서 관련 있는 모든 원자력 활동에 이용될 수 있는 형태로 가공하는 데 더 이상은 이용할 수 없거나 사실상 회수가 불가능하다는 결정이 내려질 때까지, 양 당사자들은 IAEA가 당사자인 관련 안전조치 협정의 안전조치 조약을 위한 규정에 따라 IAEA가 내리는 결정을 수락한다. 또는 다. 당사자들이 달리 합의할 때까지

2. 기술은 당사자들이 달리 합의할 때까지 이 협정의 적용을 받는다.

제 12 조

분쟁 해결

이 협정의 해석, 적용 또는 이행과 관련하여 당사자들 간에 발생하는 모든 분쟁은 당사자들 간의 교섭 또는 협의를 통하여 우호적으로 해결한다.

제 13 조

개정

이 협정은 외교 경로를 통한 각서 교환 방식에 따른 당사자들의 상호 동의로 개정될 수 있다.

제 14 조

발효, 유효기간 및 종료

1. 이 협정은 양 당사자들이 외교 경로를 통하여 서면으로 이 협정의 이행을 위해 필요한 헌법적 요건을 준수하였음을 상호 통보하는 날에 발효한다. 발효일은 마지막 통보일이 된다.

2. 이 협정은 5년간 유효하며, 그 후 자동으로 다음 5년간 갱신된다. 어느 당사자가 6개월 전에 외교 경로를 통해 서면으로 이 협정 종료 의사를 미리 통보하면 언제든지 종료될 수 있다.

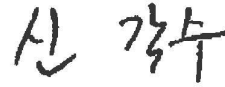
3. 이 협정의 종료에도 불구하고 이 협정에 포함된 의무의 이행 약정은 당사자들이 달리 합의하지 아니하는 한 계속 유효하다.

이상의 증거로, 아래 서명자는 그들 각자의 정부로부터 정당히 권한을 위임받아 영어와 한국어로 각 2부씩 동등한正本으로 작성한 이 협정에 서명, 봉인하였다.

2010년 10월 8 일 서울 에서 작성되었다.



남아프리카공화국 정부를 대표하여



대한민국 정부를 대표하여

**AGREEMENT FOR COOPERATION BETWEEN
THE REPUBLIC OF SOUTH AFRICA AND
THE UNITED STATES OF AMERICA
CONCERNING PEACEFUL USES OF NUCLEAR ENERGY**

The Government of the Republic of South Africa and the Government of the United States of America;

Mindful of their respective obligations under the Treaty on the Non-Proliferation of Nuclear Weapons ("NPT") to which both the United States of America ("United States") and the Republic of South Africa ("South Africa") are parties;

Reaffirming their commitment to ensuring that the international development and use of nuclear energy for peaceful purposes are carried out under arrangements which will to the maximum possible extent further the objectives of the NPT;

Affirming their support of the objectives of the International Atomic Energy Agency ("IAEA") and their desire to promote universal adherence to the NPT;

Desiring to cooperate in the development, use and control of peaceful uses of nuclear energy; and

Mindful that peaceful nuclear activities must be undertaken with a view to protecting the international environment from radioactive, chemical and thermal contamination;

Have agreed as follows :

Article I - Definitions

For the purposes of this Agreement :

- (A) "Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;
- (B) "Component" means a component part of equipment or other item so designated by agreement of the parties;

- (C) "Equipment" means any reactor, other than one designed or used primarily for the formation of plutonium or uranium 233, or any other item so designated by agreement of the parties;
- (D) "High enriched uranium" means the uranium enriched to twenty percent or greater in the isotope 235;
- (E) "Low enriched uranium" means uranium enriched to less than twenty percent in the isotope 235;
- (F) "Major critical component" means any part or group of parts essential to the operation of a sensitive nuclear facility;
- (G) "Material" means source material and special nuclear material, moderator material, or any other such substance so designated by agreement of the parties;
- (H) "Moderator material" means heavy water or graphite or beryllium of a purity suitable for use in a reactor to slow down high velocity neutrons and increase the likelihood of fission, or any other such material so designated by agreement of the parties;
- (I) "Parties" means the Government of the Republic of South Africa and the Government of the United States of America;
- (J) "Peaceful purposes" include the use of information, material, equipment and components in such fields as research, power generation, medicine, agriculture and industry but do not include use in, research on or development of any nuclear explosive device, or any military purpose;
- (K) "Person" means any individual or any entity subject to the jurisdiction of either party but does not include the parties to this Agreement;
- (L) "Reactor" means any apparatus, other than a nuclear weapon or other nuclear explosive device, in which a self-sustaining fission chain reaction is maintained by utilizing uranium, plutonium or thorium or any combination thereof;

- M) "Restricted data" means all data concerning (1) design, manufacture or utilization of nuclear weapons, (2) the production of special nuclear material, or (3) the use of special nuclear material in the production of energy, but shall not include data of a party which it has declassified or removed from the category of restricted data;
- N) "Sensitive nuclear facility" means any facility designed or used primarily for uranium enrichment, reprocessing of nuclear fuel, heavy water production, or fabrication of nuclear fuel containing plutonium;
- O) "Sensitive nuclear technology" means any information (including information incorporated in equipment or an important component) which is not in the public domain and which is important to the design, construction, fabrication, operation or maintenance of any sensitive nuclear facility, or other such information which may be so designated by agreement of the parties; but shall not include restricted data;
- P) "Source material" means (1) uranium, thorium or any other material so designated by agreement of the parties, or (2) ores containing one or more of the foregoing materials in such concentration as the parties may agree from time to time;
- Q) "Special nuclear material" means (1) plutonium, uranium 233, or uranium enriched in the isotope 235, or (2) any other material so designated by agreement of the parties.

Article 2 - Scope of Cooperation

1. The parties shall cooperate in the use of nuclear energy for peaceful purposes in accordance with the provisions of this Agreement and their applicable treaties, national laws, regulations and license requirements.
2. Transfer of information, material, equipment and components under this Agreement may be undertaken directly between the parties or through authorised persons. Such transfers shall be subject to this Agreement and to such additional terms and conditions as may be agreed by the parties.

Article 3 - Transfer of Information

1. Information concerning the use of nuclear energy for peaceful purposes may be transferred. Transfers of information may be accomplished through various means, including reports, data banks, computer programs, conferences, visits, and assignments of staff to facilities. Fields which may be covered include, but shall not be limited to, the following :
 - (A) Development, design, construction, operation, maintenance and use of reactors, and reactor experiments;
 - (B) The use of material in physical and biological research, medicine, agriculture and industry;
 - (C) Fuel cycle studies of ways to meet future world-wide civil nuclear needs, including multilateral approaches to guaranteeing nuclear fuel supply and appropriate techniques for management of nuclear wastes;
 - (D) Safeguards and physical protection;
 - (E) Health, safety and environmental considerations related to the foregoing; and
 - (F) Assessing the role nuclear power may play in national energy plans.
2. This Agreement does not require the transfer of any information which the parties are not permitted by law to transfer.
3. Restricted data shall not be transferred under this Agreement.
4. Sensitive nuclear technology shall not be transferred under this Agreement unless provided for by an amendment to this Agreement.

Article 4 - Transfer of Material, Byproduct Material, Equipment and Components

1. Material, byproduct material, equipment and components may be transferred for applications consistent with this Agreement. Sensitive nuclear facilities and major critical components shall not be transferred under this Agreement.
2. Low enriched uranium may be transferred for use as fuel in reactor experiments and in reactors, for conversion or fabrication, or for such other purposes as may be agreed by the parties.
3. The quantity of special nuclear material transferred under this Agreement shall not at any time be in excess of that quantity the parties agree is necessary for any of the following purposes : use in reactor experiments or the loading of reactors, the efficient and continuous conduct of such reactor experiments or operation of such reactors, and the accomplishment of other purposes as may be agreed by the parties.
4. Small quantities of special nuclear material may be transferred for use as samples, standards, detectors, targets and for such other purposes as the parties may agree. Transfers pursuant to this paragraph shall not be subject to the quantity limitations in paragraph 3.
5. The United States shall endeavour to take such actions as are necessary and feasible to ensure a reliable supply of nuclear fuel to South Africa, including the export of material on a timely basis and the availability of the capacity to carry out this undertaking during the period of this Agreement.

Article 5 - Storage and Retransfers

1. Plutonium and uranium 233 (except as contained in irradiated fuel elements), and high enriched uranium, transferred pursuant to this Agreement or used in or produced through the use of material or equipment so transferred shall only be stored in a facility to which the parties agree.

2. Material, equipment and components transferred pursuant to this Agreement and any special nuclear material produced through the use of any such material or equipment shall not be transferred to unauthorized persons or, unless the parties agree, beyond the recipient Party's territorial jurisdiction.

Article 6 - Reprocessing and Enrichment

1. Material transferred pursuant to this Agreement and material used in or produced through the use of material or equipment so transferred shall not be reprocessed unless the parties agree.
2. Plutonium, uranium 233, high enriched uranium and irradiated source or special nuclear material, transferred pursuant to this Agreement or used in or produced through the use of material or equipment so transferred, shall not be altered in form or content, except by irradiation or further irradiation, unless the parties agree.
3. Uranium transferred pursuant to this Agreement or used in any equipment so transferred shall not be enriched after transfer unless the parties agree.

Article 7 - Physical Protection

1. Adequate physical protection shall be maintained with respect to source or special nuclear material and equipment transferred pursuant to this Agreement and special nuclear material used in or produced through the use of material or equipment so transferred.
2. The parties agree to the levels for the application of physical protection set forth in the Annex to this Agreement, which may be modified by mutual consent of the parties without amending this Agreement. The parties shall maintain adequate physical protection measures in accordance with these levels. These measures shall as a minimum provide protection comparable to the recommendations set forth in IAEA document INFCIRC/225/Revision 2 concerning the physical protection of nuclear material, or in any revision of that document agreed to by the parties.

3. The adequacy of physical protection measures maintained pursuant to this Article shall be subject to review and consultations by the parties periodically and whenever either party is of the view that revised measures may be required to maintain adequate physical protection.
4. Each party shall identify those agencies or authorities having responsibilities for ensuring that levels of physical protection are adequately met and having responsibility for coordinating response and recovery operations in the event of unauthorized use or handling of material subject to this Article. Each party shall also designate points of contact within its national authorities to cooperate on matters of out-of-country transportation and other matters of mutual concern.
5. The provisions of this Article shall be implemented in such a manner as to avoid undue interference in the parties' nuclear activities and so as to be consistent with prudent management practices required for the economic and safe conduct of their nuclear programs.

Article 8 - No Explosive or Military Application

Material, byproduct material, equipment and components transferred pursuant to this Agreement and material and byproduct material used in or produced through the use of any material, equipment or components so transferred shall not be used for any nuclear explosive device, for research on or development of any nuclear explosive device, or for any military purpose.

Article 9 - Safeguards

1. Cooperation under this Agreement shall require the application of IAEA safeguards with respect to all nuclear activities within the territory of South Africa, under its jurisdiction or carried out under its control anywhere. Implementation of a safeguards Agreement pursuant to Article III (4) of the NPT shall be considered to fulfill this requirement.
2. Source or special nuclear material transferred to South Africa pursuant to this Agreement and any source or special nuclear material used in or produced through the use of material, equipment or components so transferred shall be subject to safeguards in accordance with the agreement between South Africa and the IAEA for the application of safeguards in connection with the NPT, signed on 16 September 1991.

3. Source or special nuclear material transferred to the United States pursuant to this Agreement and any source or special nuclear material used in or produced through the use of any material, equipment or components so transferred shall be subject to the agreement between the United States of America and the IAEA for the application of safeguards in the United States of America, done at Vienna 18 November 1977, entered into force on 9 December 1980.
4. If either party becomes aware of circumstances which demonstrate that the IAEA for any reason is not or will not be applying safeguards in accordance with the agreement as provided for in paragraph 2 or paragraph 3, to ensure effective continuity of safeguards the parties shall immediately enter into arrangements with the IAEA or between themselves which conform with IAEA safeguards principles and procedures and with the coverage required by that paragraph and which provide assurance equivalent to that intended to be secured by the system they replace.
5. Each party shall take such measures as are necessary to maintain and facilitate the application of safeguards provided for under this Article.
6. Each party shall establish and maintain a system of accounting for and control of source and special nuclear material transferred pursuant to this Agreement and source and special nuclear material used in or produced through the use of any material, equipment or components so transferred. The procedures for this system shall be comparable to those set forth in IAEA Document INFCIRC/153 (Corrected), or in any revision of that document agreed to by the parties.
7. Upon the request of either party, the other party shall report or permit the IAEA to report to the requesting party on the status of all inventories of source and special nuclear material subject to this Agreement.
8. The provisions of this Article shall be implemented in such a manner as to avoid undue interference in the parties' nuclear activities and so as to be consistent with prudent management practices required for the economic and safe conduct of their nuclear programs.

Article 10 - Multiple Supplier Controls

If any agreement between either party and another nation or group of nations provides such other nation or group of nations rights equivalent to any or all of those set forth under Article 5 or 6 with respect to material, equipment or components subject to this Agreement, the parties may, upon request of either of them, agree that the implementation of any such rights will be accomplished by such other nation or group of nations.

Article 11 - Cessation of Cooperation

1. If either party at any time following entry into force of this Agreement :

- (A) does not comply with the provisions of Article 5, 6, 7, 8, or 9 or;
- (B) terminates, abrogates or materially violates a safeguards agreement with the IAEA;

the other party shall have the rights to cease further cooperation under this Agreement and to require the return of any material, equipment and components transferred under this Agreement and any special nuclear material produced through their use.

- 2. If South Africa at any time following entry into force of this Agreement detonates a nuclear explosive device, the United States shall have the same rights as specified in paragraph 1.
- 3. If the United States at any time following entry into force of this Agreement detonates a nuclear explosive device which contains nuclear material of South African origin or derived from South African source material transferred to the United States under this Agreement, South Africa shall have the same rights as specified in paragraph 1.
- 4. If either party exercises its rights under this Article to require the return of any material, equipment or components, it shall, after removal from the territory of the other party, reimburse the other party for the fair market value of such material, equipment or components. Fair market value for purposes of this Agreement shall be determined by negotiation between the parties.

Article 12 - Consultations and Environmental Protection

1. The parties undertake to consult at the request of either party regarding the implementation of this Agreement and the development of further cooperation in the field of peaceful uses of nuclear energy.
2. The parties shall consult, with regard to activities under this Agreement, to identify the international environmental implications arising from such activities and shall cooperate in protecting the international environment from radioactive, chemical or thermal contamination arising from peaceful nuclear activities under this Agreement and in related matters of health and safety.

Article 13 - Entry Into Force, Duration, and Amendment

1. This Agreement replaces the previous Agreement for Peaceful Nuclear Cooperation between the United States and South Africa signed 8 July 1957, as subsequently amended, which shall terminate upon the entry into force of this Agreement. Cooperation initiated under the previous Agreement shall continue in accordance with the provisions of this Agreement. The provisions of this Agreement shall apply to material and equipment subject to the previous Agreement. This Agreement shall enter into force on the date on which the parties exchange diplomatic notes informing each other that they have completed all applicable requirements for its entry into force, and shall remain in force for a period of 25 years. This term may be extended for such additional periods as may be agreed between the parties in accordance with their applicable requirements. This Agreement may be terminated at any time by either party on one year's written notice to the other party.
2. Notwithstanding the suspension, termination or expiration of this Agreement or any cooperation hereunder for any reason, Articles 5, 6, 7, 8, 9, and 11 shall continue in effect so long as any material, equipment or components subject to these articles remains in the territory of the party concerned or under its jurisdiction or control anywhere, or until such time as the parties agree that such material, equipment or components are no longer usable for any nuclear activity relevant from the point of view of safeguards.

3. The parties shall, at the request of either party, consult on amendments to this Agreement. All amendments shall require the agreement in writing of both parties.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Agreement.

DONE at **Pretoria**, this **25TH** day of August, 1995,
in two originals in the English language.

FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA :

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA :



.....



.....

ANNEX

Pursuant to paragraph 2 of Article 7, the agreed levels of physical protection to be ensured by the competent national authorities in the use, storage and transportation of the materials listed in the attached table shall as a minimum include protection characteristics as below.

Category III

Use and storage within an area to which access is controlled.

Transportation under special precautions including prior arrangements among sender, recipient and carrier, and prior agreement between entities subject to the jurisdiction and regulation of supplier and recipient states, respectively, in case of international transport specifying time, place and procedures for transferring transport responsibility.

Category II

Use and storage within a protected area to which access is controlled, i.e., an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control, or any area with an equivalent level of physical protection.

Transportation under special precautions including prior arrangements among sender, recipient and carrier, and prior agreement between entities subject to the jurisdiction and regulation of supplier and recipient states, respectively, in case of international transport, specifying time, place and procedures for transferring transport responsibility.

Category I

Material in this category shall be protected with highly reliable systems against unauthorized use as follows :

Use and storage within a highly protected area, i.e., a protected area as defined for category II above, to which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their objective the detection and prevention of any assault, unauthorized access or unauthorized removal of material.

Transportation under special precautions as identified above for transportation of categories II and III materials and, in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces.

TABLE : CATEGORIZATION OF NUCLEAR MATERIAL

Material	Form	Category		
		I	II	III ^a
1. Plutonium ^a	Unirradiated ^b	2 kg or more	Less than 2 kg but more than 500 g	500 g or less but more than 15 g
2. Uranium-235	Unirradiated ^b			
	- uranium enriched to 20 % ²³⁵ U or more	5 kg or more	Less than 5 kg but more than 1 kg	1 kg or less but more than 15 g
	- uranium enriched to 10 % ²³⁵ U but less than 20 %		10 kg or more	Less than 10 kg but more than 1 kg
	- uranium enriched above natural but less than 10 % ²³⁵ U			10 kg or more
3. Uranium-233	Unirradiated ^b	2 kg or more	Less than 2 kg but more than 500 g	500 g or less but more than 15 g
4. Irradiated fuel			Depleted or natural uranium, thorium or low-enriched fuel (less than 10 % fissile content) ^{a,b}	

^a / All plutonium except that with isotopic concentration exceeding 80 % in plutonium-238.

^b / Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rads/hour at one metre unshielded.

^c / Quantities not falling in Category III and natural uranium should be protected in accordance with prudent management practice.

^d / Although this level of protection is recommended, it would be open to States, upon evaluation of the specific circumstances, to assign a different category of physical protection.

^e / Other fuel which by virtue of its original fissile material content is classified as Category I and II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 100 rads/hour at one metre unshielded.

AGREED MINUTE

During the negotiation of the Agreement for Cooperation between the Republic of South Africa and the United States of America Concerning Peaceful Uses of Nuclear Energy ("Agreement") signed today, the following understandings, which shall be an integral part of the Agreement, were reached.

Coverage of Agreement

Material, equipment and components transferred from the territory of one party to the territory of the other party, whether directly or through a third country, will be regarded as having been transferred pursuant to the Agreement only if, prior to transfer, the appropriate government authority of the recipient party confirms in writing to the appropriate government authority of the supplier party that such material, equipment or components will be subject to the Agreement.

For the purposes of implementing the rights specified in Articles 5 and 6 with respect to special nuclear material produced through the use of nuclear material transferred pursuant to the Agreement and not used in or produced through the use of equipment transferred pursuant to the Agreement, such rights shall in practice be applied to that proportion of special nuclear material produced which represents the ratio of transferred material used in the production of the special nuclear material to the total amount of material so used, and similarly for subsequent generations.

With reference to Article 8 it is understood that "military purpose" does not include power to a military base drawn from the civil power network or production of radioisotopes to be used for diagnosis or therapeutic purposes in a military hospital.

Safeguards

If either party becomes aware of circumstances referred to in paragraph 4 of Article 9, either party shall have the rights listed below, which rights shall be suspended if both parties agree that the need to exercise such rights is being satisfied by the application of IAEA safeguards under arrangements pursuant to paragraph 4 of Article 9;

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA :

At Bama

Handwritten signature: [Illegible]



AGREEMENT

BETWEEN

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

AND

**THE GOVERNMENT OF THE RUSSIAN
FEDERATION**

**ON STRATEGIC PARTNERSHIP AND
COOPERATION IN THE FIELDS OF
NUCLEAR
POWER AND INDUSTRY**

The Government of the Republic of South Africa and the Government of the Russian Federation, hereinafter jointly referred to as the "Parties" and separately as a "Party";

CONSIDERING that both States are members of the International Atomic Energy Agency (hereinafter referred to as "the IAEA") and the Nuclear Suppliers Group, as well as Parties to the Treaty for Non-Proliferation of Nuclear Weapons as of July 1, 1968;

ACKNOWLEDGING the Agreement between the Government of the Russian Federation and the Government of the Republic of South Africa on Cooperation in the field of Peaceful Uses of Nuclear Energy as of November 20, 2004;

TAKING INTO ACCOUNT the intentions of the Government of the Republic of South Africa for the implementation of the large-scale national plan for the power sector development, involving the construction by 2030 of new nuclear power plant (hereinafter referred to as "NPP") units in the Republic of South Africa;

NOTING the rights and obligations of the Parties under the Agreement between the Government of the Russian Federation and the Government of the Republic of South Africa on the Promotion and Reciprocal Protection of Investments as of November 28, 1998;

REFERRING to the Joint Presidential Statement on establishment of comprehensive strategic partnership between the Russian Federation and the Republic of South Africa of March 26, 2013;

AIMING to further expand and deepen the mutually beneficial economic, scientific and technical cooperation between the Russian Federation and the Republic of South Africa in the fields of nuclear energy and industry for peaceful uses, based on the principles of equality, non-interference in the internal affairs and respect of the sovereignty of both States; and

CONVINCED that legal fixation of the strategic partnership in the fields of nuclear power and industry will contribute to the development of cooperation in other areas between the Russian Federation and the Republic of South Africa;

Hereby agree as follows:

Article 1

This Agreement creates the foundation for the strategic partnership and cooperation in the fields of nuclear power and industry for peaceful uses between the Parties, aimed at the successful implementation of the national plan for the power sector development of the Republic of South Africa, based on the principles of equality and mutual benefit.

Article 2

Cooperation within the framework of this Agreement shall be implemented strictly in compliance with the Parties' respective national legislations and with respect to international treaties, to which the states of the Parties are signatories.

Article 3

The Parties shall create the conditions for the development of strategic cooperation and partnership in the following areas:

- (i) development of a comprehensive nuclear new build program for peaceful uses in the Republic of South Africa, including enhancement of key elements of nuclear energy infrastructure in accordance with IAEA recommendations;

- (ii) design, construction, operation and decommissioning of NPP units based on the VVER reactor technology in the Republic of South Africa, with total installed capacity of about 9.6 GW;
- (iii) design, construction, operation and decommissioning of the multi-purpose research reactor in the Republic of South Africa;
- (iv) development of joint business in the fields of radioisotopes manufacturing and global marketing, including the involvement of the multi-purpose research reactor facilities planned for construction in the Republic of South Africa;
- (v) enhancement and implementation of the program on the development of South-African human resources for work at the nuclear facilities, including NPPs, in the Republic of South Africa;
- (vi) support the enhancement of the regulatory framework in the field of nuclear and radiation safety in the Republic of South Africa, including development of relevant legal base, licensing system and regulation;
- (vii) strengthening of nuclear radiation safety system in the field of peaceful uses of nuclear energy in the Republic of South Africa;
- (viii) support the enhancement of the industrial base development program essential for the re-development of nuclear energy in the Republic of South Africa;
- (ix) localization of the manufacture of components for the NPP equipment in the Republic of South Africa;
- (x) assist in the integration of the developed nuclear joint manufacturing capacities and capabilities in the supply chain as well as for the joint marketing and promotion of the produced products to the third countries markets;
- (xi) enhancement of security and assurance of physical protection of nuclear facilities in the Republic of South Africa;
- (xii) strengthening and adaptation of nuclear and radiological emergency response system in the Republic of South Africa;

- (xiii) radioactive waste management in the Republic of South Africa;
- (xiv) rendering of the nuclear fuel cycle front-end services to secure the needs of the new units of NPPs to be built in the Republic of South Africa, including the accession of the respective South-African organization to the International Uranium Enrichment Center;
- (xv) support of feasibility activities for site investigation for NPP construction in the Republic of South Africa; and
- (xvi) activities in other areas that may be agreed upon by the Parties in writing through diplomatic channels.

Article 4

1. The Parties collaborate in areas as outlined in Article 3 of this Agreement which are needed for the implementation of priority joint projects of construction of two new NPP units with VVER reactors with the total capacity of up to 2,4 GW at the site selected by the South African Party (either Koeberg NPP, Thyspunt or Bantamsklip) in the Republic of South Africa and other NPP units of total capacity up to 7,2GW at other identified sites in the Republic of South Africa and construction of a multi-purpose research reactor at the research center located at Pelindaba, Republic of South Africa. The mechanism of implementation of these priority projects will be governed by separate intergovernmental agreements, in which the Parties shall agree on the sites, parameters and installed capacity of NPP units planned to be constructed in the Republic of South Africa.

2. The Parties shall create such conditions as to issue timely permits (licenses) for nuclear energy and industry capacities design, construction, commissioning, operation and decommissioning, as well as related export and import of facilities, equipment, technologies, nuclear and radioactive materials, special non-nuclear materials and services in the field of peaceful uses of nuclear energy in

accordance with the Parties' respective national legislations.

Article 5

1. For the purpose of implementing this Agreement each Party shall designate competent authorities:

(i) For the Russian Party the Competent Authority shall be the State Atomic Energy Corporation "Rosatom" (for all areas of cooperation) and the Federal Service for Ecological, Technological and Atomic Inspectorate (for support of enhancement of the regulatory framework in the field of nuclear and radiation safety in the Republic of South Africa, including development of relevant legal base, licensing system and regulation);

(ii) For the South-African Party the Competent Authority shall be the Department of Energy of the Republic of South Africa.

2. The Parties shall promptly notify each other in writing through diplomatic channels of any change of Competent Authorities, their titles or functions or designation of new Competent Authorities.

Article 6

1. The Parties shall establish a Joint Coordination Committee to provide guidance, to coordinate and to control the implementation of this Agreement.

2. Each Party shall appoint the representatives of the relevant government institutions to the Joint Coordination Committee.

3. Representatives of the Parties' Competent Authorities shall be appointed as the co-chairs of the Joint Coordination Committee. The co-chairs of the Joint Coordination Committee shall develop and agree on the Term of Reference for the Committee.

4. In three years of entry into force of this Agreement the co-chairs of the Joint Coordination Committee shall make comprehensive review of the progress in the implementation of this Agreement and provide appropriate recommendations to the Competent Authorities of the Parties regarding further implementation of this Agreement.

Article 7

Cooperation in areas as outlined in Article 3 of this Agreement, will be governed by separate agreements between the Parties, the Competent Authorities, as well as by agreements (contracts) between Russian and (or) South African authorized organizations, which are involved by the Competent Authorities of the Parties for the implementation of cooperation in the framework of this Agreement. The Competent Authorities of the Parties can, by mutual consent, involve third countries' organizations for the implementation of particular cooperation areas in the framework of this Agreement.

Article 8

The sources and format of financing of the activities within the implementation of cooperation areas as outlined in Article 3 of this Agreement will be agreed on after consultations and fixed by separate agreements between the Parties.

Article 9

For the purpose of implementation of this Agreement the South African Party will facilitate the provision of a special favorable regime in determining tax and non-tax payments, fees and compensations, which will be applied to the projects implemented in the Republic of South Africa within the areas of cooperation as outlined in Article 3 of this Agreement, subject to its domestic legislation.

Article 10

Implementation of the areas of cooperation as outlined by Article 3 of this Agreement shall be with gradual increase and shall be mutually agreed upon by the Competent Authorities of the Parties. The terms for the scope of supplies of equipment, materials and services for the projects developed and implemented in terms of the framework of this Agreement shall be provided by South African enterprises, and also by joint ventures to be set up for this purpose.

Article 11

The conditions for the protection, use and distribution of the Intellectual Property rights under this Agreement shall be determined in agreements between the Parties and agreements (contracts) between Russian and (or) South African authorized organizations concluded in accordance with Article 7 of this Agreement.

Article 12

1. Information specified as STATE SECRET of the Russian Federation or CLASSIFIED INFORMATION of the Republic of South Africa shall not be exchanged under this Agreement.

2. Information transferred under this Agreement or created from the implementation thereof and regarded by the transferring Party as CONFIDENTIAL shall be clearly marked as such.

3. The Party transferring the information under this Agreement shall mark such information in the Russian language as « Для служебного пользования » and in English language as "CONFIDENTIAL".

4. The Party receiving information marked in the Russian language as «Для служебного пользования» and in English language as "CONFIDENTIAL" shall protect it at a level equivalent to the level of protection applied by the transferring Party to such information. Such information shall not be disclosed or transferred to a third party without the written consent of the transferring Party.

5. The Parties shall limit the number of individuals having access to information which the transferring Party regards as confidential.

6. Such information shall be treated in the Russian Federation as OFFICIAL INFORMATION of LIMITED DISTRIBUTION and shall be protected in accordance with the legislation of the Russian Federation.

7. Such information shall be treated in the Republic of South Africa as «RESTRICTED INFORMATION» and shall be protected in accordance with the legislation of the Republic of South Africa.

8. All information transferred under this Agreement shall be used exclusively in accordance with this Agreement.

Article 13

1. Nuclear material, equipment, special non-nuclear material and relevant technology, as well as material (goods) of dual purpose shall be exported under this Agreement in accordance with the Parties' obligations, arising from the Treaty on Non-proliferation of Nuclear Weapons of 1 July, 1968 and other international treaties that contain provisions on export control to which the Russian Federation and/or the Republic of South Africa are parties.

2. Nuclear material, equipment, special non-nuclear material and relevant technology received by the Republic of South Africa under this Agreement, and

nuclear material, special non-nuclear material, facilities and equipment produced thereof or as a result of their use, shall—

- (i) not be used for manufacturing of nuclear weapons and other nuclear explosive devices or for achieving any other military purpose;
- (ii) be under the IAEA safeguards in accordance with the Agreement for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons between the Republic of South Africa and the IAEA of 16 September, 1991 (INFCIRC/394) throughout the entire period of their location under the jurisdiction of the Republic of South Africa;
- (iii) be ensured with measures of physical protection at levels not lower than the levels recommended by the IAEA document "The Physical Protection of Nuclear Material and Nuclear Facilities" (INFCIRC/225/Rev.5);
- (iv) be re-exported or transferred from the jurisdiction of the Republic of South Africa to any other country only with prior written consent of the Russian Federation and under above-mentioned conditions.

3. Nuclear material transferred to the Republic of South Africa under this Agreement shall not be enriched to 20% or more in the isotope uranium-235.

4. Nuclear material transferred to the Republic of South Africa under this Agreement shall not be enriched and reprocessed without prior written consent of the Russian Federation.

5. Equipment and material (goods) of dual purpose and related technology received from the Russian Federation under this Agreement and any of their reproduced copies, shall—

- (i) be used only for the declared purposes, unconnected with any activities related to the manufacturing of nuclear explosive devices;
- (ii) not be used in nuclear fuel cycle related activities that are not under the IAEA safeguards;

- (iii) not be copied, modified, re-exported or transferred to any third party without the written consent of the Russian competent authority in compliance with the legislation of the Russian Federation.

6. The Parties shall cooperate on matters of export control of equipment, material (goods) and relevant technology. Control over the use of supplied nuclear and special non-nuclear material, equipment and relevant technology shall be executed by means agreed upon through consultations between the Parties.

Article 14

Technology and facilities for chemical reprocessing of irradiated fuel, isotopic uranium enrichment and heavy water production, their major components or any items produced thereof, as well as uranium enriched to 20 percent or more in uranium-235, plutonium and heavy water shall not be transferred under this Agreement.

Article 15

1. The authorized organization of the South African Party at any time and at all stages of the construction and operation of the NPP units and Multi-purpose Research Reactor shall be the Operator of NPP units and Multi-purpose Research Reactor in the Republic of South Africa and be fully responsible for any damage both within and outside the territory of the Republic of South Africa caused to any person and property as a result of a nuclear incident occurring at NPP or Multi-purpose Research Reactor and also in relation with a nuclear incident during the transportation, handling or storage outside the NPP or Multi-purpose Research Reactor of nuclear fuel and any contaminated materials or any part of NPP or Multi-purpose Research Reactor equipment both within and outside the territory of the Republic of South Africa. The South African Party shall ensure that, under no circumstances shall the Russian Party or its authorized

organization nor Russian organizations authorized and engaged by their suppliers be liable for such damages as to the South African Party and its Competent authorities, and in front of its authorized organizations and third parties.

2. Nuclear liability due to nuclear incident occurring when handling and transporting the nuclear fuel shall be transferred from the authorized Russian organization to the authorized South African organization after the physical handing over of the nuclear fuel at a place determined in separate agreements (contracts) as concluded in accordance with Article 7 of this Agreement.

3. Should the Vienna Convention on Civil Liability for Nuclear Damage enter into force for the Republic of South Africa, the issues of civil liability for nuclear damage under this Agreement for the South African Party shall be regulated by this Vienna Convention.

Article 16

The Parties shall settle all disputes arising from the interpretation or implementation of this Agreement amicably by Parties' Competent Authorities consultations or negotiations through diplomatic channels. In case of any discrepancy between this Agreement and agreements (contracts), concluded under this Agreement, the provisions of this Agreement shall prevail.

Article 17

1. This Agreement shall enter into force on the date of the receipt through diplomatic channels of the final written notification of the completion by the Parties of internal government procedures necessary for its entry into force.

2. This Agreement shall remain in force for a period of twenty (20) years and shall automatically be renewed for a further period of ten (10) years unless

terminated by either Party giving 1 (one) year written notice in advance through diplomatic channels to the other Party of its intention to terminate it.

3. Upon the receipt by one of the Parties of the written notification from the other Party on the termination of this Agreement, the Parties shall hold consultations immediately on the possibility of implementing all obligations of the Parties under this Agreement, in accordance with the domestic law of the Parties.

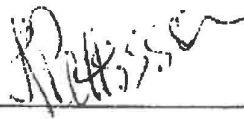
4. The termination of this Agreement shall not affect the rights and obligations of the Parties which have arisen as a result of the implementation of this Agreement before its termination, unless the Parties agree otherwise.

5. This Agreement may be amended by mutual consent of the Parties through an Exchange of Notes between the Parties through diplomatic channels. Such amendments shall form an integral part of this Agreement.

6. The termination of this Agreement shall not affect the performance of any of the obligations under agreements (contracts) which arise during the validity period of this Agreement and are uncompleted at the moment of such termination, unless the Parties agree otherwise.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed and sealed this Agreement in two originals in the Russian and English languages, all texts being equally authentic. In the case of divergence of interpretation, the English text shall be used.

Done at Yerevan this 21st day of September, 2014.



FOR THE GOVERNMENT OF
THE REPUBLIC OF SOUTH
AFRICA



FOR THE GOVERNMENT OF
THE RUSSIAN FEDERATION



AGREEMENT

BETWEEN

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

AND

**THE GOVERNMENT OF THE PEOPLE'S
REPUBLIC OF CHINA**

ON

**COOPERATION IN THE FIELD OF
CIVIL NUCLEAR ENERGY PROJECTS**

[Handwritten signature]
[Handwritten signature]

PREAMBLE

The Government of the Republic of South Africa and the Government of the People's Republic of China (hereinafter jointly referred to as the "Parties" and separately as a "Party"),

CONSIDERING the comprehensive strategic partnership between our two countries;

RECOGNIZING the Agreement between the Government of the People's Republic of China and the Government of the Republic of South Africa on Cooperation in the Peaceful Uses of Atomic Energy signed on June 21, 2006, at Cape Town; and the Memorandum of Understanding between the Government of the People's Republic of China and the Government of the Republic of South Africa on Cooperation in the Energy Sector, signed on August 24, 2010, at Beijing;

TAKING INTO ACCOUNT that the Republic of South Africa is planning civil nuclear energy new-builds with a total capacity of 9.6 GWe, with the aim of satisfying the increasing power demand, reduce carbon emissions, facilitate localisation for industrialisation, economic and social development, and is also willing to conduct cooperation with the People's Republic of China based on the significant on-going and long-standing cooperation between the two countries;

MINDFUL that the People's Republic of China possesses a complete nuclear industry, has the capabilities in design, construction, operation and management of various research reactors, and commercial reactors, as well as in nuclear fuel fabrication and supply, and is willing to participate in the civil nuclear energy development in the Republic of South Africa and to form long term and strategic collaborative relationships with local businesses;

EXPRESSING the willingness of both Parties to foster increased cooperation through investment, development of technology and expertise, and the construction of civil nuclear energy projects in the Republic of South Africa for their mutual benefit;

AFFIRMING their commitment towards further enhancing the bilateral cooperation in the civil nuclear energy sector, by encouraging and facilitating the building of closer relationships between relevant Government agencies, intermediaries, independent regulatory agencies, academic, legal and financial institutions, developers and other enterprises active in the civil nuclear energy sector;

HEREBY AGREE as follows:

Article 1

1. Cooperation between the Parties under this Agreement shall follow the principle of mutual benefit and reciprocity based on the recognition of the achievements and developments in the field of nuclear energy made by the People's Republic of China and the Republic of South Africa, as well as the willingness and interest of the relevant Chinese and South African nuclear energy enterprises to participate in the development, construction and operation of civil nuclear energy projects in South Africa, China and any other third country. The Governments may authorize state or private organizations of the Parties to participate in the implementation of this Agreement.
2. The Parties will advance and support cooperation in the civil nuclear energy sector in their respective countries.

Article 2

1. The Parties will encourage and facilitate their respective enterprises to cooperate in the civil nuclear energy sector, including but not limited to, the fields of experience exchange, personnel training, site evaluation and selection, localization, project planning, project management, consultancy, enhance infrastructure development, fundamental research, design and engineering, investment and financing, construction, operation, maintenance, equipment and fuel supply as well as development of new technology for civil nuclear energy new-builds in the Republic of South Africa and the People's Republic of China, and any other third country.
2. The Parties undertake to support enterprises of both countries with their expertise and technologies into their civil nuclear energy sectors, by providing information and the necessary guidance regarding their laws, policies and regulations which are relevant to the civil nuclear energy projects but subject to the applicable national legislation.
3. Both Parties will consider how to realize the goals of this Agreement. This may, where appropriate, include signing agreements as well as contracts between enterprises, intermediaries, independent regulatory agencies, academic, legal and financial institutions and the developers for civil nuclear energy projects and agreeing on the step by step implementation plans in accordance with the Peaceful Uses Agreement and this Framework Agreement.



Article 3

1. It is the understanding of both Parties that participation of the relevant civil nuclear energy enterprises in the construction of nuclear energy projects, must comply with the applicable domestic laws of the respective countries and any other necessary independent regulatory requirements. The Parties shall protect all the relevant legal rights of investors and project participants in accordance with the applicable laws. The Parties also agree to uphold the international non-proliferation framework, including the relevant international treaties, Conventions and IAEA safeguards.
2. It is the understanding of both Parties that the implementation of any civil nuclear energy project pursuant to this Agreement in the Republic of South Africa and the People's Republic of China or any other third country, should be based on equal and mutual benefit regarding the commercial negotiations and agreements of the respective Parties as well as the long term development of the organizations respectively.

Article 4

1. The Competent Authorities responsible for the implementation of this Agreement and for coordinating all cooperation programmes entered into under this Agreement shall be-
 - (a) in the case of the Republic of South Africa, the Department of Energy; and
 - (b) in the case of the Government of the People's Republic of China, the China National Energy Administration.
2. The Parties shall establish a working group for the purpose of the joint development of plans of cooperation as well as implementation and analysis of the work to be performed in the areas referred to in Article 2.
This Working group may report to the Energy Sub-Committee of China and South Africa Bi-National Commission.
3. The Co-Chairs, Representatives and Secretariat members of the Working Group will be appointed by China National Energy Administration and the Department of Energy of the Republic of South Africa respectively. The Co-Chairs will be Director-General of Nuclear Power Department of China National Energy Administration and the Director-General of the Department of Energy for the Republic of South Africa. The Representatives of the Working Group will include but not limited to personnel from the relevant government agencies, where appropriate, jointly agreed personnel from the civil nuclear energy enterprises.



4. The agenda, time and place of the meetings of the Working Groups shall be agreed upon by the Parties.
5. The Working Group may establish sub-working group for conducting collaboration in specific area or project. The sub-working group so established, will stay active until such a time as the work is completed.
6. The subsistence and travel expenses of participants attending to cooperation programmes and meetings of implementing agencies or Working Groups contemplated under this Agreement shall be borne by the respective Parties or their implementing agencies.

Article 5

The Working Group tasks include:

1. Reviewing progress of the implementation and delivery set out in this Agreement, and to report to and seek approval of specific projects from the Parties respectively;
2. Coordination and support of implementation of specific projects as referred to in Article 2 of this Agreement;
3. Facilitating cooperation between Chinese and South African enterprises in the civil nuclear energy field, to deepen their mutual understanding and cooperation by, where appropriate, holding exhibitions, seminars and symposiums;
4. To coordinate and seek to solve difficulties and eliminate barriers to investment, joint projects and market entry; and
5. Any other areas which may be agreed to by the Parties within the framework of this Agreement.

Article 6

1. The outcome or results of specific programmes of cooperation carried out under this Agreement, which are not yet in the public domain, shall be kept confidential by the Parties.
2. If a Party wishes to share the results with a third party, prior written consent of the other Party shall be obtained.



- 3 The outcome and results of specific programmes of cooperation carried out under this Agreement shall be published only with the written consent of both Parties.
- 4 Any notification concerning this Agreement shall be addressed in writing to the Parties through an Exchange of Notes between Parties through the diplomatic channel.

Article 7

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be settled amicably between the Parties through negotiations or consultations.

Article 8

This Agreement may be amended by mutual consent of the Parties through an Exchange of Notes between the Parties through the diplomatic channel.

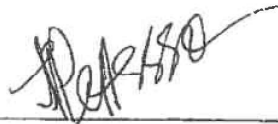
Article 9

1. Upon signature of the Agreement, the Agreement shall enter into force on the date on which Parties have notified each other in writing, through the diplomatic channel, that their respective internal procedures necessary for its entry into force have been completed.
2. This Agreement shall be valid for twenty years and shall be automatically extended for a further term of ten years, unless either Party notifies the other Party, six months in advance through the diplomatic channel, of its intention to terminate the Agreement.
3. The termination of this Framework Agreement shall not affect the implementation of any arrangement and/or contracts made during the period of its validity but still not completed by the date of its termination, unless otherwise agreed upon in writing by the Parties through the diplomatic channel.
4. Either Party may propose an amendment to the Agreement by means of a written notice through the diplomatic channel to the other Party. The amendment will be effected by mutual written consent between the Parties.



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

DONE aton this.....day of 2014.



FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA



FOR THE GOVERNMENT OF THE
PEOPLE'S REPUBLIC OF CHINA



**AGREEMENT
BETWEEN
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
AND
THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA
ON COOPERATION IN THE FIELD OF
CIVIL NUCLEAR ENERGY PROJECTS**

PREAMBLE

The Government of the People's Republic of China and the Government of the Republic of South Africa (hereinafter jointly referred to as the "Parties" and separately as a "Party"),

CONSIDERING the comprehensive strategic partnership between our two countries;

RECOGNIZING the *Agreement between the Government of the People's Republic of China and the Government of the Republic of South Africa on Cooperation in the Peaceful Uses of Atomic Energy* signed on June 21, 2006, at Cape Town; and the *Memorandum of Understanding between the Government of the People's Republic of China and the Government of the Republic of South Africa on Cooperation in the Energy Sector*, signed on August 24, 2010, at Beijing;

TAKING INTO ACCOUNT that the Republic of South Africa is planning civil nuclear energy new-builds with a total capacity of 9.6 GWe, with the aim of satisfying the increasing power demand, reduce carbon emissions, facilitate localisation for industrialisation, economic and social development, and is also willing to conduct cooperation with the People's Republic of China based on the significant on-going and long-standing cooperation between the two countries;

MINDFUL that the People's Republic of China possesses a complete nuclear industry, has the capabilities in design, construction, operation and management of various research reactors, and commercial reactors, as well as in nuclear fuel fabrication and supply, and is willing to participate in the civil nuclear energy development in the Republic of South Africa and to form long term and strategic collaborative relationships with local businesses;

EXPRESSING the willingness of both Parties to foster increased cooperation through investment, development of technology and expertise, and the construction of civil nuclear energy projects in the Republic of South Africa for their mutual benefit;

AFFIRMING their commitment towards further enhancing the bilateral cooperation in the civil nuclear energy sector, by encouraging and facilitating the building of closer relationships between relevant Government agencies, intermediaries, independent regulatory agencies, academic, legal and financial institutions, developers and other enterprises active in the civil nuclear energy sector;

HEREBY AGREE as follows:

Article 1

1. Cooperation between the Parties under this Agreement shall follow the principle of mutual benefit and reciprocity based on the recognition of the achievements and developments in the field of nuclear energy made by the People's Republic of China and the Republic of South Africa, as well as the willingness and interest of the relevant Chinese and South African nuclear energy enterprises to participate in the development, construction and operation of civil nuclear energy projects in South Africa, China and any other third country. The Governments may authorize state or private organizations of the Parties to participate in the implementation of this Agreement.
2. The Parties will advance and support cooperation in the civil nuclear energy sector in their respective countries.

Article 2

1. The Parties will encourage and facilitate their respective enterprises to cooperate in the civil nuclear energy sector, including but not limited to, the fields of experience exchange, personnel training, site evaluation and selection, localization, project planning, project management, consultancy, enhance infrastructure development, fundamental research, design and engineering, investment and financing, construction, operation, maintenance, equipment and fuel supply as well as development of new technology for civil nuclear energy new-builds in the Republic of South Africa and the People's Republic of China, and any other third country.

2. The Parties undertake to support enterprises of both countries with their expertise and technologies into their civil nuclear energy sectors, by providing information and the necessary guidance regarding their laws, policies and regulations which are relevant to the civil nuclear energy projects but subject to the applicable national legislation.
3. Both Parties will consider how to realize the goals of this Agreement. This may, where appropriate, include signing agreements as well as contracts between enterprises, intermediaries, independent regulatory agencies, academic, legal and financial institutions and the developers for civil nuclear energy projects and agreeing on the step by step implementation plans in accordance with the Peaceful Uses Agreement and this Framework Agreement.

Article 3

1. It is the understanding of both Parties that participation of the relevant civil nuclear energy enterprises in the construction of nuclear energy projects, must comply with the applicable domestic laws of the respective countries and any other necessary independent regulatory requirements. The Parties shall protect all the relevant legal rights of investors and project participants in accordance with the applicable laws. The Parties also agree to uphold the international non-proliferation framework, including the relevant international treaties, Conventions and IAEA safeguards.
2. It is the understanding of both Parties that the implementation of any civil nuclear energy project pursuant to this Agreement in the Republic of South Africa and the People's Republic of China or any other third country, should be based on equal and mutual benefit respecting the commercial negotiations and agreements of the respective Parties as well as the long term development of the organizations respectively.

Article 4

1. The Competent Authorities responsible for the implementation of this Agreement and for coordinating all cooperation programmes entered into under this Agreement shall be—
 - (a) in the case of the Government of the People's Republic of China, the China National Energy Administration; and

(b) in the case of the Republic of South Africa, the Department of Energy.

2. The Parties shall establish a working group for the purpose of the joint development of plans of cooperation as well as implementation and analysis of the work to be performed in the areas referred to in Article 2.
This Working group may report to the Energy Sub-Committee of China and South Africa Bi-National Commission.
3. The Co-Chairs, Representatives and Secretariat members of the Working Group will be appointed by China National Energy Administration and the Department of Energy of the Republic of South Africa respectively. The Co-Chairs will be Director-General of Nuclear Power Department of China National Energy Administration and the Director-General of the Department of Energy for the Republic of South Africa. The Representatives of the Working Group will include but not limited to personnel from the relevant government agencies, where appropriate, jointly agreed personnel from the civil nuclear energy enterprises.
4. The agenda, time and place of the meetings of the Working Groups shall be agreed upon by the Parties.
5. The Working Group may establish sub-working group for conducting collaboration in specific area or project. The sub-working group so established, will stay active until such a time as the work is completed.
6. The subsistence and travel expenses of participants attending to cooperation programmes and meetings of implementing agencies or Working Groups contemplated under this Agreement shall be borne by the respective Parties or their implementing agencies.

Article 5

The Working Group tasks include:

1. Reviewing progress of the implementation and delivery set out in this Agreement, and to report to and seek approval of specific projects from the Parties respectively;
2. Coordination and support of implementation of specific projects as referred to in Article 2 of this Agreement;
3. Facilitating cooperation between Chinese and South African enterprises in the civil nuclear energy field, to deepen their mutual understanding and

cooperation by, where appropriate, holding exhibitions, seminars and symposiums:

4. To coordinate and seek to solve difficulties and eliminate barriers to investment, joint projects and market entry; and
5. Any other areas which may be agreed to by the Parties within the framework of this Agreement.

Article 6

1. The outcome or results of specific programmes of cooperation carried out under this Agreement, which are not yet in the public domain, shall be kept confidential by the Parties.
2. If a Party wishes to share the results with a third party, prior written consent of the other Party shall be obtained.
3. The outcome and results of specific programmes of cooperation carried out under this Agreement shall be published only with the written consent of both Parties.
4. Any notification concerning this Agreement shall be addressed in writing to the Parties through an Exchange of Notes between Parties through the diplomatic channel.

Article 7

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be settled amicably between the Parties through negotiations or, consultations.

Article 8

This Agreement may be amended by mutual consent of the Parties through an Exchange of Notes between the Parties through the diplomatic channel.

Article 9

1. Upon signature of the Agreement, the Agreement shall enter into force on

the date on which Parties have notified each other in writing, through the diplomatic channel, that their respective internal procedures necessary for its entry into force have been completed.

2. This Agreement shall be valid for twenty years and shall be automatically extended for a further term of ten years, unless either Party notifies the other Party, six months in advance through the diplomatic channel, of its intention to terminate the Agreement.
3. The termination of this Framework Agreement shall not affect the implementation of any arrangement and/or contracts made during the period of its validity but still not completed by the date of its termination, unless otherwise agreed upon in writing by the Parties through diplomatic channel.
4. Either Party may propose an amendment to the Agreement by means of a written notice through the diplomatic channel to the other Party. The amendment will be effected by mutual written consent between the Parties.

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

DONE at Beijing on this 7th day of November 2014.

**For the Government of
the People's Republic of China**

A stylized Chinese signature in black ink, likely belonging to Wu Xinhua.

**For the Government of
the Republic of South Africa**

A stylized signature in black ink, likely belonging to the South African representative.

WEDNESDAY 9 DECEMBER 2015 BusinessDay

National

IN BRIEF

Armcor puts out feelers for Zuma jet

MARKET | Armcor had initiated a process to test the market for the acquisition of a new aircraft for President Jacob Zuma or the VIP unit of the South African Air Force, Defence and Military Veterans Minister Nosiviwe Mapisa-Nqakula said in a written reply to a parliamentary question. She said no specific amount had been allocated to the project, which would either proceed or not, depending on the information gleaned. *Linda Ezer*

Board prepares for Phiyega
LOGISTICS | The presidential board of inquiry looking into suspended national police commissioner Riah Phiyega's fitness to hold office had become operational, but would be concerned with logistical preparations in coming weeks, board of inquiry secretary Liza Tsatsi said yesterday. It will be chaired by Judge Neels Gassen. *Staff Writer*

Report on sale of posts ready
EDUCATION | A probe into the alleged widespread sale of public sector teaching posts and promotions had been made available to Basic Education Minister Angie Motshekga, but would be presented to her officially only next week, the department said yesterday. She is expected to discuss action with the Council of Education Ministers early next year. *Staff Writer*

Marikana claimants get date
TALKS | Government lawyers had invited the legal representatives of Marikana claimants to a round-table discussion next month to discuss a process to resolve the claims, the Presidency said yesterday. The discussion would be "held on or before January 29 2016" to resolve the claims in a manner that was transparent, effective and expeditious, it said. *Staff Writer*

George's flagship turns one
TRANSPORT | The Go George integrated public transport network reached the first-year mark yesterday. The R2,27bn network, the first non-metro integrated public transport system and a pilot project for the roll-out of others outside city centres, became operational on December 8 last year and has since sold more than 2-million tickets. *Yvonne Stander*

Red Ants directors in court
FRAUD | Two former Red Ants directors appeared briefly in the Johannesburg Magistrate's Court, where they are facing 102 charges of fraud and theft involving about R6m. Dennis Stephen Klassen and his daughter, Rochelle Klassen Adams, are accused of defrauding the company. *Staff Writer*

Deconstructing rumours of a sixth Zuma reshuffle

WHEN in doubt, a Cabinet reshuffle is not a bad idea. And the rumour mill has it that President Jacob Zuma is doing exactly that — planning his sixth reshuffle in as many years.

Cabinet reshuffles tend to be inaccurate in terms of the names of the people to be axed, as well as those making their way in. And the timing, too, is often wrong. That is partly because a lot of last-minute horse trading takes place.

Also, Mr Zuma is a hugely unpredictable animal.

NEWS Analysis

Sam Mckelvie

But after five reshuffles — excluding the mandatory new Cabinet when his second term started — his actions can be deconstructed with a degree of confidence.

The shake-ups are usually a work of political expediency — the managing of party dynamics often coinciding with political pressure. The looming racing downgrades, for example, are an albatross.

But some of the reshuffles are forced on him by corruption scandals. Think Sicele Shiceka,



Tina Joemat-Pettersson



Nhlanhla Nene



Faith Muthambi

Gwen Mahlangu and Rhekhe Cele. News now is that Mr Zuma has his sights trained on the Treasury and the Department of Energy.

A source says that Nhlanhla Nene is to make way for a backbencher in the form of one Dee van Rooyen, a malleable member of Parliament's finance committee. It's worth noting, though, that

the Treasury and the Reserve Bank have in the past been treated as sacrosanct institutions, to which only the cream of the crop have been deployed.

Communications Minister Faith Muthambi is, according to the rumour mill, to be moved to Energy, replacing Tina Joemat-Pettersson. This would be an eye-

popping move, but definitely not desirable. But it's much of the same in the bigger scheme of things, since both women have not covered themselves in glory.

Maybe Ms Muthambi has the edge over Ms Joemat-Pettersson because of the overzealous way in which she pushes for what she deems is in Mr Zuma's interest.

Energy is one of the departments responsible for policy matters when it comes to the controversial nuclear deal.

Meanwhile, the Treasury has dragged its feet in providing funds for the nuclear deal, the apex procurement programme of the Zuma era.

The little that it has provided in the medium-term strategic framework is for preliminary scoping and such work, rather than for the actual deal.

The Treasury has also clashed recently with Dudu Myeni, the board chairwoman at South African Airways. Ms Myeni has already claimed two scalpings in previous reshuffles, when ministers who stood in her way were shuffled.

To manage this reshuffle, Mr Nene could be encouraged to "apply" for a job at one of the multilateral institutions, such as the Brics Bank.

Such a move would give a veneer of credibility to the "official" reasons behind a reshuffle, if it actually happens.

But Mr Zuma keeps his cards close to his chest, unless in the company of good friends such as the Gupta family, believed to have let the Cabinet reshuffle cut out of the bag in the past.

mckelvie@bdlm.co.za

Media bar at Motsoeneng hearing

PENELOPE MASHIGO

Political Writer

THE media were kicked out of Hlalu Motsoeneng's disciplinary hearing yesterday after three South African Broadcasting Corporation (SABC) employees refused to testify in the presence of journalists.

This prompted hearing chairman Ady Willem Iddeling to request that the media leave, infuriating Zola Majavu, Mr Motsoeneng's lawyer.

Lead prosecutor Tunisho Phalane said the witnesses were not comfortable testifying in front of journalists. He also said they would be "extremely prejudicial".

Abraham Mafiso, who works at the SABC's human resources department, was the first to voice discomfort at testifying in the presence of the media.

The other witnesses are an auditing executive at the state broadcaster and a senior journalist, who are expected to testify today.

Earlier, the SABC announced that it was proceeding with only three of its charges against Mr Motsoeneng. It originally had six charges against him including gross dishonesty, gross misconduct and abuse of power — which still stand.

The gross dishonesty charge relates to Mr Motsoeneng allegedly falsifying his marital certificate.

"The SABC's records show that you commenced employment... on or about March 1 1986 as a trainee journalist. When you applied for this position, you completed an application form. In the form... you recorded that you passed standard 10 (Grade 12) at age 23," said Mr Phalane, reading out the charges to Mr Motsoeneng.

Mr Motsoeneng is accused of having made the same claim in subsequent applications for employment at the broadcaster. He is also accused of gross misconduct when he transferred Solly Moseweni from her GM post and made her the SABC's head of monitoring, compliance and operation service. Mr Motsoeneng is said to have created the position for Ms Moseweni without approval from the SABC's executive committee.

mashigo@bdlm.co.za

Law required Nhleko to compile report

FRANNY RABKIN

Law and Constitution Writer

IF POLICE Minister Nathi Nhleko had refused to compile a report on the security upgrades at President Jacob Zuma's private home in Ntandla, he would have been acting unlawfully, the minister said in court papers yesterday.

The scandal over Public Protector Thuli Madonsela's Secure In Comfort report — in which she made damning findings about upgrades to Mr Zuma's private home — continues to be a thorn in the government's side. It has dominated parliamentary debates and

has spilled over into the courts.

Two opposition parties, the Economic Freedom Fighters (EFF) and the Democratic Alliance (DA) have separately gone to court. The Constitutional Court has agreed to hear their applications to go straight to the highest court in February.

Part of the DA's case concerns the lawfulness of the report prepared by the minister and tabled before Parliament in March.

In heads of argument, Mr Nhleko's counsel, William Mokhele SC, said the minister was asked to compile the report by the speaker of Parliament and was

constitutionally obliged to comply with the direction. "A refusal by the minister of police to carry out the lawful instruction or request of the speaker would have been tantamount to ignoring a minister's constitutional duties to Parliament," he said.

Mr Mokhele said in the time before the report was delivered, the process had not been challenged to court. In addition, the request to compile the report was "reasonable and in accordance" with the recommendations made by the public protector, he said.

This was because the public protector recommended that

Parliament must determine whether or not the upgrades were security related. To this end, Parliament relied on the police minister "making a determination as to which features are not security related", Mr Mokhele said.

In his report, Mr Nhleko absolved the president from paying back any of the costs. He said the fire or swimming pool, cattle kraal and chicken run, visitors' centre and amphitheatre were critical to the security system in Ntandla, contrary to Ms Madonsela's findings.

The DA wants the Constitutional Court to declare Mr Nhleko's

report unlawful. But it had previously argued that Ms Madonsela had already identified which features were not security related. All that was left to determine was the reasonable cost of these, it said.

The DA's James Sello said yesterday the report was unlawful because it was a "parallel process" to the public protector's, which the Supreme Court of Appeal had said was not acceptable.

Mr Nhleko had been "guided by nothing else but abiding 'number one' and the report should never have been entered by Parliament in the first place.

rabkin@bdlm.co.za

"What's the true measure of your success?"

"Our clients' vote of confidence."

As proud recipients of the Global Custodian Market Outperformer Award, we would like to thank our clients for seeing the value we deliver. In a survey of cross-border clients, our clients represented 45% of the participant market share. It's your trust in us that has won this award and it's because of it that we are able to keep moving you forward.

standardbank.com/eli

Corporate and Investment Banking

Standard Bank Moving Forward™

Also trading as Stanbic Bank

Approved financial services and regulated credit provider (NCRCP002)
The Standard Bank Group is a member of the Standard Bank Group, which is a member of the Standard Bank Group.

NN



South African Airways
 Chairperson
 8th Floor
 A Block, Airways Park
 OR Tambo International Airport

Private Bag X 13
 Kempton Park
 1627

Tel: 27 11 978-2520
 Email: Chairperson@lysaa.co.za

Minister Nhlanhla Nene, MP
 National Treasury
 40 Church Square
 Pretoria
 0002

By email: minreg@treasury.gov.za

Dear Honourable Minister,

EVALUATION OF THE POTENTIAL FOR A NEW SAA ROUTE TO KHARTOUM

In a phone call discussion with His Excellency President Zuma while in Sudan about 3 months ago, a request was made for SAA to evaluate the potential for a new route to Khartoum. I am writing to you Honourable Minister to inform you about the outcome of the Business Case that was developed by SAA. This letter also provides the basis on which the Minister can present the results to His Excellency President Zuma.

The Business Case entailed the analysis of the commercial viability of SAA operating a passenger service, three times weekly, from Johannesburg to Khartoum as an extension of our existing route to Entebbe, Uganda. Current and future forecast traffic flows were already understood to be far below those required to support a dedicated direct service from Johannesburg to Khartoum.

SAA's route network Business Cases are based on modelling of the potential demand for an SAA service amongst others. In this case, the preliminary modelling results indicate that the route would incur losses of approximately R 30 million in the first two years of operation. This route could potentially break-even in the third year of operation, assuming that all other factors (i.e. competition on the route, GDP growth, Brent crude oil price, etc.) positively meet or exceed the forecast in the modelling.

Notwithstanding these results, alternative measures such as subsidization of the initial services by the Government of Sudan, granting of fifth Freedom rights for onward connections, SAA undertaking operations on behalf of the Government of Sudan as a designated flag carrier, etc, could make this operation potentially viable.

Directors

DC Mpani* (Chairperson), Vili Meyer (Chief Financial Officer), Y. Kwaana* . J.E. Tsimba* (Sierra Leonean), AD Davis*

*Non-Executive Director

Company Secretary - Ruth Kibanda

South African Airways SOC Ltd

Reg. No. 1967/002444/20

A. S. K. R. A. I. L. I. N. E. M. E. M. B. E. R. S.

ben

Notwithstanding SAA's Management and Board determination to review its Network Plan annually and to explore opportunities in Africa, if the above alternative measures are negotiated to the benefit of SAA and our Shareholder Representative, ultimately the Government of South Africa, I see no reason why SAA could not commence services to Khartoum via Entebbe, Uganda as stated above. I must also hasten to say that guidance and an audience with the Shareholder Representative would help SAA to take correct decisions as per anticipated economic activities emerging in Sudan after oil and other mineral deposits recently discovered. We have also observed and are determined to aggressively expand our business in the Continent as per our African Growth Strategy, and it is in Africa where we have seen profitability.

We are clear and resolute on our Strategic Objective to support our National Developmental Agenda, and we would continue to do so as long as SAA is not negatively affected commercially. In this regard, the opportunity to provide passenger service to Khartoum from Johannesburg via Entebbe would be exhaustively reviewed taking into consideration the measures listed above.

I attach herewith a business case viability analysis for consideration.

I trust the Honourable Minister finds this in order.

Yours sincerely,



Ms. Duduzile Myeni
SAA Chairperson

Date: 2015/06/17.

Profit/Loss Analysis of Khartoum operations

Market Size		3 816
PDEW		10
Average Fare		191
Revenue (\$)	\$	1 992
Revenue (ZAR)	R	24 115
One Way		
Direct Operating Cost/bh	R	50 880
Aircraft Cost/eh	R	10 581
Total Cost/bh	R	61 461
Block hrs		2.38
Flight cost	R	146 277
Profit/Loss per flight	R	-122 158
Profit/Loss per week for 3 weekly flights	R	-732 946
Profit/Loss per year	R	-38 113 217

DCM



SAA Submission
SAA Private and Confidential
For internal use only

Business Case: Commencement of SAA' own metal operation to Khartoum via Entebbe, Sudan	
To:	South African Airways – Board of Directors
From:	Chief Commercial Officer
Date:	27 May 2015

Commencement of SAA's own metal operation to Khartoum via Entebbe, Sudan

1. Purpose

The purpose of this business case is to assess the commercial viability of South African Airways' own metal services to Khartoum via Entebbe. The route would be an extension of the current Entebbe service aboard an Airbus A320.

2. Executive Summary

This document aims to assess the viability of a South African Airways own metal operations by extending the current Entebbe operations to Khartoum in Sudan, three times per week aboard an Airbus 320-200 aircraft type configured with 138 seats in total (pending aeropolitical approvals).

According to IHS (2015), Sudan is ranked at number seventeen (17) amongst the fastest growing economies in the world, largely influenced by significant revenue earnings from crude oil production even under international trade sanctions imposed against the country.

The current air travel market size between Sudan and all destinations is recorded at 1.6 million passengers per annum, with the majority of the traffic being between Middle-East, North Africa and Sudan. The geographical location of Sudan as a major air travel market is over-shadowed by six global mega air travel hubs in Addis Ababa, Cairo, Jeddah, Dubai, Abu Dhabi and Doha; impeding its ability to fully develop as a hub. Sudan's demographic makeup is largely influenced by Islamic culture, thus most of the intercontinental air traffic demand is served through the middle-eastern/North African points/hubs. Khartoum has limited connectivity to/from Sub-Saharan Africa due to its location and demographic make-up which is more leaned towards the Gulf and North African countries.

The viability of the operations was evaluated using QSI methodology to assess the quality of the demand between Uganda and Sudan. The forecast indicates that the route has the potential to break-even in the third year of operations assuming that all other factors (i.e. Competition on the route, GDP growth, Brent Crude oil, Income levels, e.t.c) influencing demand for air travel remains constant or positively change.

3. The Market opportunity

3.1 Demographic, Economic Background and Outlook for Sudan

Sudan is an African country in the Nile Valley of North Africa, bordered by Egypt, the Red Sea, Eritrea, Ethiopia, South Sudan, Central African Republic, Chad and Libya.



SAA Submission
SAA Private and Confidential
For internal use only

Sudan is considered the 17th – fastest economy in the world according to IHS analysis due to rapid development of the country's economy largely from oil revenue even under international sanctions. Khartoum is the political, cultural and commercial centre of the nation. The Sudanese legal system is based on Islamic law. Sudan experiences several challenges such as rampant ethnic strife and has been plagued by internal conflicts including two civil wars and the War in the Darfur region for many years.

In Sudan's 2008 census, the population of Northern, Western and Eastern Sudan was recorded to be over 30 million. This puts present estimates of the population of Sudan after the secession of South Sudan at slightly over 36 million people. The population of metropolitan capital Khartoum (including Khartoum, Omdurman, and Khartoum North) is growing rapidly.

Sudan is still in territory dispute with South Sudan, which contained over 80 percent of Sudan's oilfields; the economic forecast for Sudan in 2011 and beyond was uncertain since the formation of South Sudan. Agriculture remains the main source of income and employing over 80 percent of Sudanese population, and makes up a third of the economic sector, while oil production drove most of Sudan's post-2000 growth.

The International Monetary Fund (IMF) is working hand in hand with Khartoum government to implement sound macroeconomic policies for sustainable growth with improvements to the country's monetary policy which has managed to stabilize the foreign exchange market. The People's Republic of China is a major trading partner, and owns a 40 percent share in the Greater Nile Petroleum Operating Company.

The recent decline in price of Crude oil has resulted in loss of revenue and it is the key driver of inflation. South Sudan's secession and the resultant drop in Sudan's oil exports, which were the primary source of foreign-exchange earnings for the country, have resulted in soaring inflation, averaging 35% y/y since July 2011—although inflation fell to 28.2% y/y as of October 2014, with a further fall expected for 2015. Fuel-subsidy cuts and devaluations of the Sudanese Pound in June 2012 and September 2013 also fuelled inflation and undermined confidence in the economic growth of the country. Although Sudan increased exports of other commodities such as gold and the South Sudanese oil production resumed, these have generated insufficient foreign exchange to stabilize the economic downturn of the country. It is expected that double-digit inflation will persist in the near-term as the weakened currency has driven up the cost of imported goods in the CPI basket (particularly food, much of which Sudan must import from abroad). Pressures on domestic prices may also emanate from supply-side disruptions owing to perennial violence.

Oil was and still remains Sudan's main export, with production increasing dramatically during the late 2000s, in the years before South Sudan gained independence in July 2011, while agriculture production remains Sudan's most-important sector, employing eighty percent of the workforce and contributing thirty-nine percent of GDP, but most farms remain rain-fed and susceptible to drought. Instability, adverse weather and weak world-agricultural prices ensures that much of the population remains below the poverty line. Sudan's economy has relatively strong long-term growth potential owing to vast natural resources.



SAA Submission
SAA Private and Confidential
For internal use only

Macro-Economic Indicators: Sudan

	2007	2008	2009	2010	2011
Nominal GDP Per Capita (US\$)	\$ 2 188	\$ 2 339	\$ 2 422	\$ 2 523	\$ 2 887
Real GDP (% change)	0.9%	2.7%	3.3%	3.4%	3.4%

Figure 1 Source: HIS (base year 2011)

3.2 Market for air travel to Khartoum

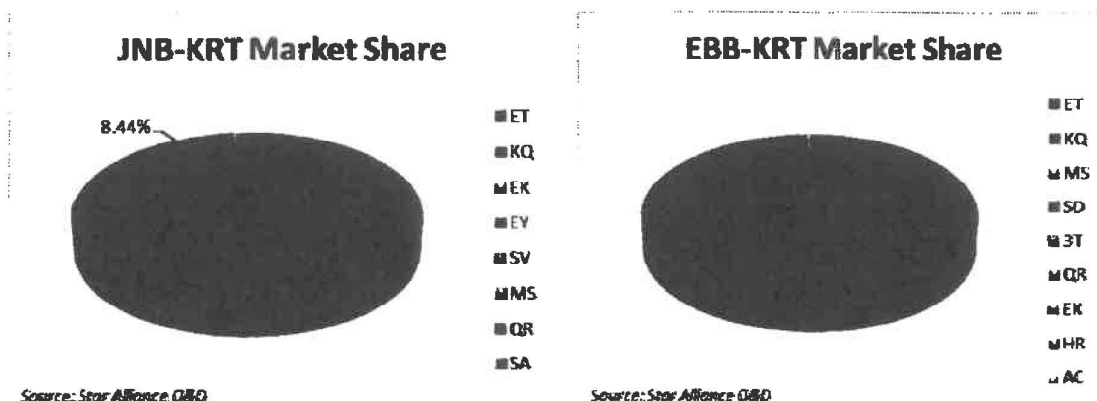
Sudan has a significant number of airfields; nine have permanent-surface runways, but only Khartoum Airport can be considered an international airport. Sudan Airways is a passenger and cargo carrier. It operates a few domestic flights. Most of its international flight routes have been cancelled following accidents and an inability to replace spare parts because of US sanctions.

Major foreign airlines that have operated scheduled flights to Khartoum include the following: Air Arabia (UAE), Egyptair, Emirates (UAE), Ethiopian Airlines, Turkish Airlines, Gulf Air (Bahrain), Kenya Airways, Lufthansa, Qatar Airways, Royal Jordanian & Saudi Arabian Airlines.



Figure 2

Source: Great Circle Mapper



Ethiopian Airlines dominates both JNB and EBB markets with commanding market shares of 75% and 57% respectively. Most passengers from Sudan are bound for the Middle East and North Africa, with Egypt and Saudi Arabia being the top destinations in terms of passenger travel. Most of these services are operated by Sudan Airways and Saudi Arabian Airlines. However, traffic between Sudan and Sub Saharan Africa is controlled by Ethiopian and Kenya Airways respectively.



SAA Submission
SAA Private and Confidential
For internal use only

The market size between JNB-KRT and EBB-KRT is 2300 and 3800 annual passengers each way respectively; Ethiopian Airways has the controlling market share in both routes. SAA operations to Sudan will be able to break the Ethiopian and Kenya Airways duopoly on these routes, with all three airlines competing on a one stop service basis.

Competitive Landscape

Khartoum to Sub-Saharan Africa	
Dominant airlines	Seats/Week
SD	14952
3T	7182
ET	5490
KQ	1344
O9	1128
Grand Total	30096

Keys:

3T= Turan Air ET=Ethiopian Airlines
KQ= Kenya Airways O9= Nova Airways
SD= Sudan Airways J4= Badr Airlines
UE= NasAir MS= Egypt Air
IY= Yemen Airways EK= Emirates Airlines

Khartoum to Sub-Saharan Africa	
Dominant airlines	Annual Passengers
SD	158 024
3T	113 851
J4	83 266
ET	46 126
O9	24 451
KQ	22 357
UE	8 793
MS	873
IY	725
EK	306
Grand Total	458 773

- Sudan Airways is the dominant carrier in Sudan. Being the national carrier, Sudan Air has a vast domestic network as well as international destinations such as Abudabi, Dubai, Cairo e.t.c.
- Turan Air and Badr Airlines are other dominant carriers in Sudan.

4. Strategic Action Plan

4.1 Schedule

- SAA's schedule will be evenly spread to have a flight every other second day.
 - Three weekly frequencies will allow for SAA to have a competitive schedule and to capture more than 70% of the already weak air travel market to/from Sub-Saharan Africa
- APG.Net (QSI) results and route profitability modelling

Flt No.	Origin	Destination	Dep Time	Arr Time	A/C	DOW
SA 160	JNB	EBB	1400	1905	319	1234567
SA 161	EBB	KRT	2005	240	319	.2.4..7
SA 160	KRT	EBB	340	620	319	1.3.5..
SA 161	EBB	JNB	725	1040	319	1234567

Figure 5

Source: APG.net QSI

Assumptions:

- 3 flights per week extended to Khartoum on the current Entebbe service aboard an A320
- Traffic growth rate at 7% for the 1st three years of operations
- Brent Crude oil price as per SAA budget at USD 85
- Average fare growth rate at 3% for the 1st three years
- Current Entebbe schedule to remain as per current operations

APG. Net QSI results:

- It is forecasted that 59% and 41% of the traffic on SAA's EBB – KRT service will divert from ET and KQ who currently serves the KRT market via Addis and Nairobi respectively.

AL	Passenger Diversion	Revenue Diversion
ET	58.7%	58.9%
KQ	40.7%	40.7%
TK	0.3%	0.2%
SD	0.1%	0.1%
MS	0.1%	0.1%
3T	0.1%	0.1%
O9	0.0%	0.0%

Figure 6

Source: APG.net QSI



SAA Submission
SAA Private and Confidential
For internal use only

Figure 7 : Route statistics

Performance indicators	Route Statistics			CAGR
	Khartoum via Entebbe	Khartoum via Entebbe	Khartoum via Entebbe	
	JNBEBBKRT	JNBEBBKRT	JNBEBBKRT	
No. flights per Week	6	6	6	0%
No. flights per Year	312	312	312	0%
No. seats (in an SAA 138-seater A320)	43 056	43 056	43 056	0%
No. RevPax (EBB)	31 824	34 415	36 692	5%
No. RevPax (KRT)	13 728	15 345	16 914	7%
Load factor	58%	64%	68%	5%
Ave Net fare (EBB)	2 612	2 737	2 869	3%
Ave Net fare (KRT)	1 601	1 678	1 758	3%
RPK1 (EBB)	93 276 144	100 870 986	107 542 866	5%
RPK2 (KRT)	23 584 704	26 363 529	29 057 690	7%
ASK1 (EBB)	126 197 136	126 197 136	126 197 136	0%
ASK2 (KRT)	73 970 208	73 970 208	73 970 208	0%

Source: APG.Net and OAG SRS Analyser

The first three years of operations on the Khartoum route is forecasted to record 7% constant traffic growth rate at the back of a tepid growth in yields with flat capacity.

4.2 Route Profitability modelling

The extension of Khartoum route on Entebbe operations is forecasted to break-even in the third year of operations; as the current market size is extremely thin, it would take some time to develop this to a sustainable level.



SAA Submission
SAA Private and Confidential
For Internal use only

Figure 7: Route Profitability Model (Source: SAA RCE report FY 2014/15)

ROUTE PROFITABILITY				
ROUTE PROFITABILITY (\$ amounts)	INTERCOM, S Entebbe JNB, BEB, KRT	INTERCOM, S Entebbe JNB, BEB, KRT	INTERCOM, S Entebbe JNB, BEB, KRT	% CAGR
Gross SAA PAX Revenue	105 102 816	119 954 753	135 000 297	9%
Cargo Belly Freight Net Revenue	5 465 346	5 738 614	6 025 544	3%
Fuel levy and other recoveries	43 983 763	50 132 860	56 344 608	9%
GROSS REVENUE	154 551 926	175 826 227	197 370 450	8%
PAX Cost of Sales	(8 408 225)	(9 596 380)	(10 800 024)	9%
OPERATING COSTS				
Flight Costs	(60 050 203)	(63 112 764)	(66 394 627)	3%
Schedule Costs	(36 030 122)	(37 867 658)	(39 836 776)	3%
Fuel Costs	(46 038 489)	(48 386 452)	(50 902 548)	3%
OPERATING PROFIT	4 024 886	16 862 973	29 436 475	94%
<i>Operating Profit Margin</i>	<i>3%</i>	<i>10%</i>	<i>15%</i>	<i>79%</i>
Route / Area Costs	(6 005 020)	(6 251 226)	(6 513 778)	3%
INDIRECT OPERATING PROFIT	(1 980 134)	10 611 746	22 922 697	326%
Aircraft Costs (existing fleet)	(18 015 061)	(20 417 069)	(22 678 960)	8%
ROUTE PROFIT ("C4") contribution to corporate overheads	(19 995 195)	(9 805 323)	243 737	123%
<i>Route profit margin</i>	<i>-13%</i>	<i>-6%</i>	<i>0%</i>	<i>121%</i>

Figure 8: Sensitivity Analysis

		Yield							
		0.98	1.08	1.18	1.28	1.38	1.48	1.58	
Load Factor	66%	R -39 428 201	R -26 140 778	R -12 853 354	R 434 069	R 13 721 493			
	64%	R -43 334 513	R -30 447 425	R -17 560 336	R -4 673 247	R 8 213 842			
	62%		R -34 754 071	R -22 267 317	R -9 780 563	R 2 706 191	R 15 192 945		
	60%		R -39 060 718	R -26 974 299	R -14 887 879	R -2 801 460	R 9 284 960	R 17 113 179	
	58%		R -43 367 365	R -31 681 280	R -19 995 195	R -8 309 110	R 3 376 974	R 15 063 059	
	56%			R -36 388 261	R -25 102 511	R -13 816 761	R -2 531 011	R 8 754 739	
	54%			R -41 095 243	R -30 209 827	R -19 324 412	R -8 438 997	R 2 446 419	
	52%				R -35 317 143	R -24 832 063	R -14 346 982	R -3 861 901	
	50%				R -40 424 460	R -30 339 714	R -20 254 968	R -10 170 221	

5. Recommendations

The above case assesses the viability of SAA commercial operations to Khartoum via Entebbe. The route will be an extension of the current Entebbe service aboard an Airbus A320.

As per the business case, the proposed services show no commercial viability for SAA mainly due to the fact that:

- The market size is too thin with most passengers bound for the Middle East and North Africa, with Egypt and Saudi Arabia as the main destinations



SAA Submission
SAA Private and Confidential
For Internal use only

-
- The geographical location of Sudan means as a travel market it is more aptly served by six major air travel hubs - Addis Ababa, Cairo, Jeddah, Dubai, Abu Dhabi and Doha - better placed to serve traffic flows compared to the Johannesburg hub

Joanne Scott

From: Ministry Registry
Sent: 31 July 2015 06:50 AM
To: chairperson@flysaa.com
Cc: Moire de Vos <MoireDeVos@flysaa.com> (MoireDeVos@flysaa.com)
Subject: Evaluation of the potential for a new South African Airways Route to Khartoum
Attachments: SKMBT_C454e15073017270

Dear colleagues

Please find attached correspondence for Ms Myeni's attention.

Please acknowledge receipt.

Kind regards

Joanne Scott

Ministry of Finance
40 Church Square, Old Reserve Building, PRETORIA
Private Bag X115, PRETORIA, 0001
Tel: +27 12 315 5158
Fax: +27 12 323 3262
E-mail for official correspondence: minreg@treasury.gov.za



MINISTER: FINANCE
REPUBLIC OF SOUTH AFRICA

Private Bag X115, Pretoria, 0001, Tel: +27 12 323 8911, Fax: +27 12 323 3262
PO Box 29, Cape Town, 8000, Tel: +27 21 464 6100, Fax: +27 21 461 2934

Ref. M4/1/9 (1298/15)

Ms Duduzile Myeni
Chairperson of the Board
South African Airways SOC Limited
Private Bag x13
OR TAMBO INTERNATIONAL AIRPORT
1627

Dear Ms Myeni

EVALUATION OF THE POTENTIAL FOR A NEW SOUTH AFRICAN AIRWAYS ROUTE TO KHARTOUM

I refer to your letter dated 17 June 2015 regarding the abovementioned matter.

I understand from your letter regarding that the evaluation of a potential new route for South African Airways (SAA) to Khartoum arose as a result of a discussion that you had with His Excellency, President Zuma.

Furthermore, I am aware that pursuant to that request SAA compiled a business case analyzing the commercial viability of SAA operating a passenger service from Johannesburg to Khartoum as an extension of the existing route to Entebbe. The business case performed by SAA showed that current and forecast traffic flows are far below those required to support commercially viable air services. Moreover, the information provided by SAA indicated that the proposed operations to Khartoum are envisaged to be loss-making. However, as I have stated in previous letters, SAA should not be entering into transactions or operations which will cause financial loss to the airline.

I have noted that SAA has recently developed, with the assistance of network planning specialists, a comprehensive network and fleet plan. This plan, if implemented successfully, has the potential to contribute significantly to the turnaround of the loss-making operations of the airline. This plan provides a summary of routes for SAA to operate to maximize profitability and it shows those routes which are not commercially viable and which should be closed, rescheduled or transferred to either South African Express Airways or Mango. The proposed new route to Khartoum is not included in the comprehensive network and fleet plan.

The business case evaluating the new route projected that the route would incur losses of approximately R30 million in the first two years of operation. Notwithstanding the projected losses, you have stated some alternative measures which could make the route financially


viable. These include subsidisation of SAA services by the Government of Sudan or SAA undertaking operations on behalf of the Government of Sudan as a designated flag carrier. The costs and benefits of these alternatives have not been provided and implementation, if possible, would require the engagement of various stakeholders within both the Governments of the Republics of Sudan and South Africa before being considered. As part of the National Treasury's on-going weekly technical meetings with SAA, continuous feedback is being provided with regard to the progress of the implementation of the network and fleet plan. During these meetings, SAA indicated that the letter received from you is purely for information purposes and is not a PFMA Section 54 application.

In the event that SAA decides that it would be favourable to operate the route, a comprehensive PFMA Section 54 application would need to be submitted for my consideration. Consequently, based on the current proposal, I am not supportive of SAA commencing operations to Khartoum.

In conclusion, due to the loss-making nature of the proposed operations to Khartoum, I do not approve the commencement of operations on the envisaged route.

I trust that you will find the above to be in order.

Kind regards



NHLANHLA M NENE, MP
MINISTER OF FINANCE
Date: 30/7/2015



national treasury

Department
National Treasury
REPUBLIC OF SOUTH AFRICA

MINISTER OF FINANCE	
JS	
23 JUL 2015	
FILE No:	m4/119
MINISTER OF FINANCE	
1298/15	

Memo

07 July 2015

NHLANHLA M NENE, MP
MINISTER OF FINANCE

EVALUATION OF POTENTIAL NEW SOUTH AFRICAN AIRWAYS ("SAA") ROUTE TO KHARTOUM

PURPOSE

1. To advise the Minister of Finance ("Minister") of the letter (***Annexure A***) from SAA Chairperson, Ms Duduzile Myeni, regarding the evaluation of a potential new route to Khartoum, Sudan.
2. To request the Minister **not to approve** the request for SAA to commence operations to Khartoum.
3. To request the Minister to sign the attached letter addressed to the Chairperson of SAA (***Annexure B***), should the Minister concur with the contents thereof.

BACKGROUND AND DISCUSSION

4. SAA performed poorly during the 2013/14 financial year, incurring R2.6 billion in losses. The dire financial performance of the airline has continued unabated in the 2014/15 financial year with **unaudited financial results revealing that the airline has incurred over R4 billion in losses for the 2014/15 financial year.**
5. In her letter to the Minister dated 17 June 2015, the Chairperson of SAA stated that His Excellency, President Jacob Zuma requested SAA to evaluate the potential for a new route to Khartoum, Sudan.
6. The analysis performed by SAA (***Annexure C***) showed that the current air market size between Sudan and all other destinations amounts to 1.6 million passengers per annum. The bulk of this traffic is between Sudan and destinations in the Middle East and North Africa.

EVALUATION OF POTENTIAL NEW SOUTH AFRICAN AIRWAYS ROUTE TO KHARTOUM

7. Furthermore, the analysis revealed that the geographical location of Sudan as a major air travel market is limited due to the presence of several major hubs within close proximity of the country. The effect of the mega air travel hubs of Addis Ababa, Cairo, Jeddah, Dubai, Abu Dhabi and Doha impede the ability of Khartoum to fully develop as an air traffic hub. Moreover, Khartoum has limited connectivity to/from sub-Saharan Africa due to its location and demographics, with air travel leaning more towards the Middle East and North Africa.
8. The Chairperson of SAA, in her letter to the Minister dated 17 June 2015, stated that, the future forecast traffic flows were far below those required to support a dedicated direct service between Johannesburg and Khartoum. The market size between Johannesburg and Khartoum is too thin to allow financially sustainable operations between the two cities.
9. SAA currently operates flights between Johannesburg and Entebbe in Uganda. Due to the close proximity between Entebbe and Khartoum, an evaluation was done to assess the commercial viability of SAA's own metal operations three times per week to Khartoum via Entebbe, Uganda. This proposed new route would be an extension of the current service that SAA provides between Johannesburg and Entebbe. In order not to disrupt any of the current operations, the route to Khartoum, if determined to be viable, would merely be an extension of the current route to Entebbe.
10. The analysis was performed using Quality Service Index (QSI) methodology. QSI methodology is commonly used in the passenger aviation industry to determine the air travel demand between two points as well as an estimation of the market share an airline could capture on a specific route. As shown in table 1 below, forecasts performed by the SAA network planning team indicated that the route has the potential to break-even in the third year of operations. However, this is after incurring losses of R20 million and R10 million in the first and second year of operations respectively.

Figure 1: Khartoum route profitability

ROUTE PROFITABILITY (all amounts in Rand)	Khartoum via Entebbe: JNBEBBKRT	Khartoum via Entebbe: JNBEBBKRT	Khartoum via Entebbe: JNBEBBKRT
Gross SAA PAX Revenue	105 102 816	119 954 753	135 000 297
Cargo Belly Freight Net Revenue	5 465 346	5 738 614	6 025 544
Fuel levy and other recoveries	43 983 763	50 132 860	56 344 608
GROSS REVENUE	154 551 926	175 826 227	197 370 450
PAX Cost of Sales	(8 408 225)	(9 596 380)	(10 800 024)
OPERATING COSTS			
Flight Costs	(60 050 203)	(63 112 764)	(66 394 627)
Schedule Costs	(36 030 122)	(37 867 658)	(39 836 776)
Fuel Costs	(46 038 489)	(48 386 452)	(50 902 548)
OPERATING PROFIT	4 024 886	16 862 973	29 436 475
Operating Profit Margin	3%	10%	15%
Route / Area Costs	(6 005 020)	(6 251 226)	(6 513 778)
INDIRECT OPERATING PROFIT	(1 980 134)	10 611 746	22 922 697
Aircraft Costs (existing fleet)	(18 015 061)	(20 417 069)	(22 678 960)
ROUTE PROFIT ("C4") contribution to corporate overheads	(19 995 195)	(9 805 323)	243 737
Route profit margin	-13%	-6%	0%

Source: SAA Business case

EVALUATION OF POTENTIAL NEW SOUTH AFRICAN AIRWAYS ROUTE TO KHARTOUM

11. SAA assumed a load factor of 58% at a yield of R1.28 per available seat kilometres. A sensitivity analysis performed as part of the route analysis showed that should load factors fall below expectations, losses on the route would deteriorate. A fall of 8% in expected load factors would result in losses of over R40 million in losses being incurred during the first year of operations.

Table 2: Sensitivity Analysis Khartoum

		Yield							
		0.95	1.05	1.15	1.25	1.35	1.45	1.55	
Load Factor	60%	R -39 428 281	R -26 140 778	R -12 853 354	R -4 443 289	R 13 721 488			
	58%	R -43 394 523	R -30 447 425	R -17 560 336	R -4 673 247	R 8 213 842			
	56%		R -34 754 071	R -22 267 317	R -9 280 563	R 2 786 291	R 25 192 946		
	54%		R -39 680 718	R -26 974 299	R -14 837 879	R -2 821 468	R 9 284 980	R 23 371 339	
	52%		R -43 267 365	R -31 681 280	R -19 955 195	R -8 309 130	R 3 376 974	R 15 083 089	
	50%			R -36 388 261	R -25 102 511	R -13 816 761	R -2 531 011	R 8 754 739	
	48%			R -41 085 243	R -30 209 827	R -19 324 412	R -8 438 997	R 2 446 419	
	46%				R -35 317 143	R -24 832 063	R -14 346 982	R -3 861 901	
	44%				R -40 424 460	R -30 339 714	R -20 254 968	R -10 170 221	

Source: SAA Business case

12. Two of SAA's main competitors on the African continent, namely Ethiopian Airways and Kenyan Airways currently have operations to Khartoum and Entebbe. It should be noted that neither airline has a direct operation between Khartoum and Entebbe. There is no commercially viable market for a direct service between Entebbe and Khartoum, therefore, all air travel to Khartoum on Kenyan Airways or Ethiopian Airways is via the hubs of Nairobi and Addis Ababa respectively.
13. SAA has recently developed, with the assistance of network planning specialists, a network and fleet plan which is aimed at improving the efficiency and effectiveness of SAA's flight operations. The plan aims to contribute to the turnaround of the airline through the envisaged profits that would be generated through entering into profitable new routes and profitable partnerships. The route to Khartoum, via Entebbe does not form part of the network and fleet plan. Commencement of operations would necessitate the allocation of much needed resources on this new route which could hinder the successful implementation of the plan and derail the turnaround of the airline. The expected losses on the route and the potential for additional losses in the event of lower than expected load factors render the route commercially unfeasible.
14. The Chairperson suggested some alternative measures to mitigate against the losses envisaged on the route. These include an initial subsidisation of operations by the Government of Sudan or SAA undertaking, for a fee, operations on behalf of the Government of Sudan as a designated flag carrier. However, the viability of these suggestions has not been explored.
15. As part of National Treasury's ("NT") on-going engagements with SAA, continuous feedback is provided with regards to the progress of the implementation of the network and fleet plan. During these engagements, SAA indicated that the letter from the Chairperson was purely for informational

EVALUATION OF POTENTIAL NEW SOUTH AFRICAN AIRWAYS ROUTE TO KHARTOUM

purposes and that no PFMA Section 54 application would be submitted in this regard. Moreover, SAA indicated that the proposed operations to Khartoum are envisaged to be loss making, thus if pursued, would be for developmental purposes.

CONCLUSION

16. SAA has developed as part of its turnaround strategy, a comprehensive network and fleet plan. This plan provides an analysis of all commercially viable routes that the airline intends to commence operations on as well as those which the airline intends to close, transfer to South African Express or Mango. The proposed Khartoum route has not been included in this plan.
17. An analysis of route performance shows that the airline will incur significant losses as the demand for air travel on this route is insufficient to operate air travel services in a commercially sustainable manner.
18. SAA's current loss making operations dictate that the airline should only undertake operations which will contribute to the turnaround of the airline. Commencing operations to Khartoum would lead to additional losses being incurred by the airline.
19. SAA has not applied in terms of Section 54 of the PFMA to commence operations on the route. The letter from the Chairperson was for information purposes only but revealed that there was no commercial rationale to operate the route.

RECOMMENDATION/S

20. It is recommended that the Minister:

- **Notes** the contents of this memo;
- **Not approve** SAA's request to commence operations to Khartoum; and
- **Signs** the attached letter addressed to the Chairperson of SAA, Ms Duduzile Myeni (*Annexure A*) should the Minister concur with the contents thereof.

Compiled by: Phatuwani Rasivheshle In consultation with: Ravesh Rajlal

Recommended / ~~Not Recommended~~

ff Bhekuni


AVRIL HALSTEAD
CHIEF DIRECTOR: SECTORAL OVERSIGHT
DATE: 13/07/2015

EVALUATION OF POTENTIAL NEW SOUTH AFRICAN AIRWAYS ROUTE TO KHARTOUM

Recommended / Not Recommended



ANTHONY JULIES
HEAD: ASSET AND LIABILITY MANAGEMENT
DATE: 14/07/15

Recommended / Not Recommended


LUNGISA FUZILE
DIRECTOR-GENERAL
DATE: 19/7/2015

*Minister, I cannot understand
 why this entity can contemplate
 another less-making route!!!*

Approved / Not Approved


NHLANHLA M NENE, MP
MINISTER OF FINANCE
DATE: 30/7/2015