



**AGREEMENT BETWEEN THE
GOVERNMENT OF THE
REPUBLIC OF MOZAMBIQUE**

AND

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

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

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SEARCH AND RESCUE SERVICES**

PREAMBLE

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

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

HEREBY AGREE as follows:

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ARTICLE 1 DEFINITIONS

In this Agreement, unless the context otherwise indicates -

1. "Aeronautical authority" means the respective Ministers responsible for Civil Aviation or any person or body delegated to perform any functions exercised by the said Ministers;
2. "Agency" means organisations, voluntary or otherwise, deployed to support the search and rescue units during operations;
3. "Agreement" means this Agreement, any Annexures thereto, and any amendments to the Agreement or any of its Annexures;
4. "Authority" means the Aeronautical and Maritime Authorities;
5. "Maritime Authority" means the respective Ministers responsible for Shipping or Maritime Affairs or any person or body authorised to perform any functions exercised by the said Ministers;
6. "Permanent Rescue Sub-centre" means a unit subordinate to a rescue co-ordination centre established to complement the latter according to particular provisions of responsible authorities
7. "Rescue Co-ordination Centre" means a unit responsible for promoting efficient organisation of search and rescue services and for co-ordinating the conduct of search and rescue operations within a search and rescue region
8. "Search and Rescue Aircraft" means aircraft of the Parties and such other aircraft of the Parties registry or chartered as may be brought under the control of a rescue co-ordination centre or permanent rescue sub-centre of either Party for the purposes of a search and rescue operation;
9. "Search and Rescue Organisations" means the organisation established to oversee the search and rescue function in the respective country

10. "Search and Rescue region Region" means the Mozambican search and rescue or South African search and rescue region, as defined in ICAO Doc 7474 Part V and as delineated in the Provisional Maritime SAR Plan adopted at the Western Indian Ocean, Persian Gulf and Red Sea Conference and the Indian Ocean Conference on Maritime SAR and GDMSS held in Cape Town, September 1996, and Fremantle, September 1998 respectively and as indicated in the Admiralty List of Radio Signals, Vol 5 of 1998;
11. "Search and Rescue Services" means any organisation, voluntary or otherwise capable of supporting search and rescue operations, that includes communications, distress monitoring, co-ordinating and if necessary, medical evacuations;
12. "Search and Rescue units" means any organisation composed of trained personnel and provided with equipment suitable for the expeditious conduct of search and rescue operations;
13. "Search and Rescue Vessel" means a vessel of the Parties or the agencies of the Parties and such other vessels of the Parties registry or chartered as may be brought under control of a Rescue Co-ordination Centre or Permanent Rescue Subcentre of either Party for the purposes of a search and rescue operation;
14. "Territory" means the land areas and territorial waters adjacent thereto under the sovereignty of such State.

ARTICLE 2 CO-OPERATION BETWEEN THE PARTIES

- (1) Each Party shall co-ordinate its Search and Rescue Organisations with those of the other Party and in so far as practicable develop common search and rescue procedures to facilitate co-ordination of search and rescue operations.

- (2) A Party shall, subject to its domestic law and such conditions as may be prescribed, permit immediate entry into its territory of search and rescue units of the other Party for the purpose of searching for the site of aircraft and maritime accidents and rescuing survivors of such accidents.
- (3) The authorities of a Party who wishes its search and rescue units to enter the territory of the other Party for search and rescue purposes shall transmit a request, giving full details of the projected mission and the need for it, to the Rescue Co-ordination Centre or Permanent Rescue Subcentre of such other Party or to such other authority as has been designated by that Party.
- (4) The receiving authority of the Parties shall -
 - (a) immediately acknowledge the receipt of such a request contemplated in subArticle (3); and
 - (b) as soon as possible indicate the conditions, if any, under which the projected mission may be undertaken.
- (5) The Parties shall authorise their Rescue Co-ordination Centres or Permanent Rescue Subcentres to -
 - (a) request from other Rescue Co-ordination Centres or Permanent Rescue Subcentres such assistance, including search and rescue aircraft, search and rescue vessels, personnel or equipment, as may be needed;
 - (b) grant, subject to their domestic law, any necessary permission for the entry of such search and rescue aircraft, search and rescue vessels, personnel or equipment into its territory; and
 - (c) make, subject to their domestic law, the necessary arrangements with the appropriate customs, immigration or other authorities with a view to expediting such entry.
- (6) The Parties shall authorise their Rescue Co-ordination Centres or Permanent Rescue Subcentres to provide assistance to other Rescue Co-ordination Centres, including when practicable, assistance in the form of search and rescue aircraft, search and rescue vessels, personnel or equipment, when so requested.
- (7) The Parties shall, when practicable, make arrangements for joint training exercises involving their search and rescue units, those of other States and operators, in order to promote search and rescue efficiency.
- (8) The Parties shall, when practicable, make arrangements for periodic liaison visits by personnel of the Parties to the Rescue Co-ordination Centres and Permanent Rescue Subcentres of the Parties.

ARTICLE 3
CO-OPERATION BETWEEN THE PARTIES
WITH OTHER SERVICES

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

ARTICLE 4
DISSEMINATION OF INFORMATION

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

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

- (1) In compliance with the Standards and Recommended Practices of the International Civil Aviation Organisation and the International Maritime Organisation concerning the provision of the assistance between the Search and Rescue Organisations of neighbouring States, the Search and Rescue Organisations of the Parties agree to assist one another as far as possible when the Rescue Co-ordination Centre or Permanent Rescue Subcentre of one Party requests the Rescue Co-ordination Centre or Permanent Rescue Subcentre of the other Party to provide such assistance.

- (2) The Parties agree to lend support to each other by pooling search and rescue facilities for operations along their common State boundaries within the area of the Search and Rescue Region.
- (3) Each Party shall ensure that the other Party at all times has the latest information concerning the availability, serviceability and related aspects of those of its search and rescue facilities which are part of the pool.
- (4) Each Party shall direct its Rescue Co-ordination Centre or Permanent Rescue Subcentre to alert the adjoining Rescue Co-ordination Centre or Permanent Rescue Subcentre immediately upon the occurrence of an incident within its Search and Rescue Region or area of influence, which requires or may eventually require the use of facilities of the other Search and Rescue Organisation.
- (5) In order to facilitate the use of pooled facilities each Party shall direct its Search and Rescue Organisation to endeavour to establish agreements with relevant authorities which shall permit -
 - a) an aircraft of each Party to fly over or land at designated aerodromes within its territory, and
 - b) vessels of each Party to pass through or berth at designated ports within its territory,

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

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

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

- (1) The Rescue Co-ordination Centres or Permanent Subcentres shall, when circumstances permit, upon request by a Party make available to the other Party's Rescue Co-ordination Centres or Permanent Subcentre, as required and or when practicable, one or more aircraft or vessel for the search and rescue operations in the Party's territory or in the Search and Rescue Region concerning aircraft or vessel, of any nationality.
- (2) The Rescue Co-ordination Centres or Permanent Subcentres of one Party shall, when making the request for aid, provide the other Party with all pertinent facts on the scope of the aid required.
- (3) If a search and rescue aircraft or vessel of the one Party lands or berths in the territory of the other Party in the course of such search and rescue operation, an oral or telephonic report shall be made to the nearest Customs and Immigration official so that he may assist, in any way possible, in connection with any special importation required in the search and rescue operation. This report may be made by the Rescue Co-ordination Centres or Permanent Subcentre organising the operation, whichever would best serve the interests of the particular operation.
- (4) The Party requesting assistance through their Search and Rescue Organisation shall defray the costs of the following services :
 - (a) Utilization of designated aerodromes or harbours and their equipment;
 - (b) fuelling, oil and lubricants, servicing and handling;
 - (c) accommodation and transportation of crew-members provided the choice of accommodation is acceptable to both Parties;
 - (d) acceptance of liability for injury sustained by, and for payment of compensation to persons who have been injured in the course and within the scope of a search and rescue operation in which they participated at the request of the Rescue Co-ordination Centre or Permanent Rescue Subcentre of the other Party and under the direction of an authorised official who was placed in charge of a search and rescue operation as a consequence of the arrangements made by the Rescue Co-ordination Centre or Permanent Rescue Subcentre requesting assistance: Provided that no liability shall arise under this clause in the event of such claim or liability arising from gross negligence or wilful misconduct of such persons. This does not apply to members of a voluntary body which is organised for that purpose or other organisation which has

offered its services to the Rescue Co-ordination Centre or Permanent Rescue Subcentre voluntarily;

- (e) the costs such as subsistence and transport allowances, and allowances of a special nature that are related to search and rescue operations, where such costs have been agreed upon beforehand between the Parties with regard to the persons the assisting Rescue Co-ordination Centre or Permanent Rescue Subcentre has provided; and
- (f) the costs of replacing any survival equipment used during the search and rescue operation by the Search and Rescue Organisation providing assistance.

ARTICLE 7

RECOVERY AND RETENTION OF GOODS USED DURING SEARCH AND RESCUE OPERATIONS

- (1) The recovery of re-usable supplies and survival equipment shall be arranged by the Rescue Co-ordination Centre or Permanent Rescue Subcentre of the Search and Rescue Organisation requesting assistance and the operator of the aircraft or vessel.
- (2) If any merchandise carried in an aircraft or vessel from the territory of one Party to the other in the course of the search and rescue operation, remain in the latter country at the conclusion of the operation, the merchandise shall be subject to the custom procedures normally applied in that territory to import of merchandise.

ARTICLE 8

REVIEWING OF PROCEDURES

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

ARTICLE 9

CO-ORDINATION BETWEEN AERONAUTICAL AND MARITIME SERVICES

- (1) The Parties shall ensure the closest practicable co-ordination between maritime and aeronautical services so as to provide for the most effective and efficient search and rescue services in and over their Search and Rescue Regions.

- (2) When separate maritime and aeronautical Rescue Co-ordination Centres or Permanent Rescue Subcentres are established to serve the same area, the Parties concerned shall ensure the closest practicable co-ordination between the Centres or Subcentres.
- (3) The Parties shall ensure as far as is possible, the use of common procedures by rescue units established for maritime purposes and those established for aeronautical purposes.

ARTICLE 10 AMENDMENT OF AGREEMENT

- (1) The Agreement and any Annexure thereto may be amended at any time by mutual consent of the Parties through an Exchange of Notes between the Parties through the diplomatic channel.
- (2) The Agreement shall be amended so as to conform to any multilateral convention which may become binding on both Parties.

ARTICLE 11 CONSULTATIONS

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

ARTICLE 12 TERMINATION OF AGREEMENT

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

ARTICLE 13
REGISTRATION OF AGREEMENT AND AMENDMENTS

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

ARTICLE 14
SETTLEMENT OF DISPUTES

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

- (4) Each Party shall meet the costs of remuneration and the expenses of its arbitrator. The remuneration and the expenses of the third arbitrator and the expenses of the tribunal, the nature and limits of which shall be agreed beforehand by the Parties, shall be shared equally between and shall be met by the Parties, who shall also determine the venue for the tribunal. The arbitral tribunal shall determine any question concerning the division of costs of the arbitral tribunal, the procedure to be followed and the procedure for payment of such costs.
- (5) If either Party fails to comply with a decision or stipulation contemplated in subArticle (3)(e) the other Party may limit, suspend or revoke any rights or privileges which it has granted under the Agreement to the Party in default.

ARTICLE 15 ENTRY INTO FORCE

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

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

Done at *Maputo* on this *10* day
of *May* 2002

FOR THE GOVERNMENT OF
REPUBLIC OF MOZAMBIQUE

FOR THE
GOVERNMENT OF SOUTH AFRICA

[Signature] *[Signature]*