



AGREEMENT

BETWEEN

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

AND

**THE INTERNATIONAL FUND FOR
AGRICULTURAL DEVELOPMENT**

ON

**THE ESTABLISHMENT OF A COUNTRY
OFFICE**

PREAMBLE

WHEREAS the International Fund for Agricultural Development ("IFAD" or the "Fund"), a Specialised Agency of the United Nations, wishes to establish a Country Office to serve as a Southern Africa Hub in the Republic of South Africa to support its operations and strengthen its partnerships;

WHEREAS the Government of the Republic of South Africa (the "Government") agrees to permit the establishment of such an Office;

WHEREAS the Republic of South Africa has acceded on 14th February, 1997 to the Agreement Establishing the International Fund for Agricultural Development (the "Agreement");

WHEREAS the Republic of South Africa **has** acceded on 30th August 2002 to the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947 (the "Convention") and to Annex XVI relating to the Fund, which terms shall apply to this Agreement subject to the reservations made by South Africa regarding Articles III and IX of the Convention;

NOW, THEREFORE, the Government and the Fund hereby agree as follows:—

ARTICLE I DEFINITIONS

For the purpose of this Agreement:

- (a) **"Agreement"** means the Agreement between the Government of the Republic of South Africa and the International Fund for Agricultural Development a Specialised Agency of the United Nations on the Establishment of a Country Office;
- (b) **"Country Representative"** means the lawfully appointed representative of the Fund in the Republic of South Africa nominated by the President of the Fund and accredited as such by the Government;
- (c) **"dependents"** means the dependents of the IFAD officials and includes—
 - (i) their spouse;

- (ii) any unmarried child under the age of 18 years;
 - (iii) any unmarried child between the ages of 18 and 23 years who is undertaking full-time studies at an educational institution; and
 - (iv) any other unmarried child or other family member officially recognised as a dependent of a member of the family of the IFAD official;
- (d) **"Government"** means the Government of the Republic of South Africa;
 - (e) **"IFAD"** means the International Fund for Agricultural Development, an International Financial Institution and a Specialised Agency of the United Nations, and **"the Fund"** shall have a corresponding meaning;
 - (f) **"IFAD officials"** means the Country Representative and all other officials as specified by the Fund and communicated to the Government; and
 - (g) **"Office"** means the IFAD's Southern Africa Office in the Republic of South Africa and **"Country Office"** shall have a corresponding meaning;
 - (h) **"representatives of Member Countries"** includes all alternates, advisers and technical experts assisting such representatives and secretaries of delegation.

ARTICLE II

JURIDICAL PERSONALITY OF THE FUND

- (1) The Government recognises, in accordance with the laws of the Republic of South Africa, the juridical personality of the Fund, and in particular its capacity—
 - (a) to contract;
 - (b) to acquire and dispose of movable and immovable property; and
 - (c) to institute legal proceedings.
- (2) The Government shall permit the Fund to purchase or rent premises to serve as its Office subject to the approval of the premises by the Government.
- (3) The Office shall be authorised to display the emblem of the Fund on its premises and vehicles.

ARTICLE III
GENERAL PROVISIONS

- (1) The privileges and immunities provided for in this Agreement are not designed to secure personal advantage for their beneficiaries, but rather—
 - (a) designed exclusively to ensure that the Office may operate freely in all circumstances; and
 - (b) to safeguard the complete independence of the persons to whom they are granted to execute their functions freely.
- (2) The President of the Fund may waive any of these immunities when he considers that it would impede the course of justice and can be waived without prejudice to the interests of the Office.
- (3) The President of the Fund shall take all measures that are necessary to prevent any abuse of the privileges and the immunities granted under this Agreement, and the Fund shall issue such regulations, applicable —
 - (a) to the IFAD officials; and
 - (b) others concerned, as may be deemed necessary and appropriate.
- (4) The provisions of this Agreement are applicable to all persons covered by the Agreement, regardless of whether the Government maintains diplomatic relations with the State of which such persons are nationals, or whether such State grants similar privileges and immunities to the diplomatic officials and nationals of the Republic of South Africa.
- (5) Whenever this Agreement imposes obligations on competent authorities, the Government shall be ultimately responsible for ensuring the fulfilment of such obligations.

ARTICLE IV

THE OFFICE, INVIOABILITY OF THE OFFICE AND ARCHIVES

- (1) (a) The Government shall assist the Fund and facilitate the process for the Fund to secure suitable premises and facilities required for its functioning for a provisional period of five (5) years.
 - (b) During this period, the parties shall review the requirements of IFAD including the extension of this provision.
 - (c) Expenses related to the securing, maintenance, use, furnishing, equipping, of the facilities, and for all communication and public utility services are not included in the assistance and facilitation.
- (2) (a) The Fund, its property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case it has expressly waived its immunity.
 - (b) It is however, understood that no waiver of immunity shall extend to any measure of execution.
- (3) (a) The premises of the Office shall be inviolable.
 - (b) The property and assets of the Office, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.
- (4) The archives of the Office, and in general all documents belonging to it or held by it, shall be inviolable, wherever located.
- (5) (a) The authorities, officials and agents of the Republic of South Africa shall not enter the Office in an official capacity unless at the request or with the explicit authorisation of the Country Representative or his or her delegate.
 - (b) In the event of *force majeure*, fire or any other calamity requiring urgent measures of protection, the consent of the Country

Representative or his or her representative shall be considered to have been given.

- (c) However, if requested by the Country Representative, any person who has entered the Office with his or her presumed consent shall leave the Office immediately.
- (6) The Government of the Republic of South Africa shall, to the extent possible, take all necessary measures to protect the Office against any intrusion or damage, to ensure that its tranquillity is not disturbed.
- (7) The premises of the Fund shall not be used in any manner incompatible with the mandate and purpose of the Fund or the purpose and scope of establishing the Regional Office to support its operations and strengthen its partnerships.

ARTICLE V

PUBLIC SERVICES, COMMUNICATIONS AND SOCIAL SECURITY

- (1)
 - (a) The Government undertakes to assist the Office in obtaining and making available where applicable the necessary public services on equitable terms.
 - (b) In the case of interruption or threatened interruption of any such services, the Government shall take the necessary measures to ensure that the Office's activities are not impaired by such a situation.
- (2) The Office's communications shall enjoy protection under the conditions and limitations defined in sections 11 and 12 of the Convention.
- (3) Since IFAD officials are covered by the Fund's social security scheme or a similar scheme, the Office shall not be required to contribute to any social security scheme in the Republic of South Africa, and the Government shall not require any member of the Office covered by the Fund's scheme to join such a scheme.

ARTICLE VI
FINANCIAL FACILITIES AND TAX EXEMPTION

- (1) The Office, without being restricted by financial controls, regulations or moratoria of any kind other than such restrictions occasioned by South Africa's reservation to Article III, Section 7 of the Convention, may—
 - (a) hold funds or currency of any kind and operate accounts in any currency; and
 - (b) freely transfer its funds or currency from one country to another or within any country and convert any currency held by it into any other currency;
provided that such funds or currency originate from non-resident sources.
- (2) The Office, its assets, income and other property shall be exempt from—
 - (a) all direct and indirect taxes;
 - (b) customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Office for its official use; and
 - (c) duties and prohibitions and restrictions on imports and exports in respect of its publications.
- (3) The Fund shall not claim exemption from taxes which are, in fact, no more than charges for public utility services.
- (4) Where articles were imported or assets were acquired under exemption, such articles or assets shall not be sold in the Republic of South Africa except under those conditions agreed to with the Government.

ARTICLE VII
ENTRY, TRAVEL AND SOJOURN

- (1) The Government shall recognise and accept the United Nations laissez-passer issued to officials of the Fund as valid travel documents.

- (2) Applications for visas, where required, from officials of IFAD travelling on official business and holding United Nations laissez-passer, shall be dealt with as speedily as possible.
- (3) Similar facilities to those specified in paragraph 2 shall be accorded to experts and other persons who are not holders of United Nations laissez-passer, but have a certificate that they are travelling on the business of the Fund.
- (4) The Government shall facilitate the entry into or departure from the Republic of South Africa, when travelling to or from the Office, of persons exercising official functions at the Office or invited by it.
- (5) The Government undertakes to authorise the Country Representative, other IFAD officials, and all other persons invited by the Office for official purposes and their dependants, to enter into the Republic of South Africa and sojourn in the country throughout the duration of their assignment or missions to the Office.
- (6)
 - (a) The Country Representative shall communicate to the Government a list of the IFAD officials including their dependants and inform it of any changes in this list.
 - (b) Upon notification of their appointment, the Government shall issue all IFAD officials with a card bearing the photograph of its holder which attests that such person is a member of the Office.
 - (c) This card shall be recognised by the Government as an attestation of the person's identity and status as a member of the Office.

ARTICLE VIII

PRIVILEGES, IMMUNITIES, EXEMPTIONS AND FACILITIES

- (1) By virtue of the Convention and Annex XVI thereto relating to the Fund, IFAD officials shall enjoy in the Republic of South Africa the privileges, immunities, exemptions and facilities as conferred through the Convention and Annex XVI thereto relating to the Fund.

- (2) In addition to the privileges, immunities, exemptions and facilities specified above, the President and any Vice-President of the Fund, shall be accorded in respect of themselves, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law, except if they are South African nationals or residents, in which instance this paragraph will not be applicable.
- (3) Representatives of Member Countries at meetings convened by the Fund shall, while exercising their functions and during their journeys to and from the place of meeting, enjoy the same privileges, immunities, exemptions and facilities granted by virtue of the Convention and Annex XVI thereto relating to the Fund.
- (4) Experts (other than officials coming within the scope of article VI of the Convention) serving on committees of, or performing missions for, the Fund shall be accorded the privileges and immunities specified in Annex XVI of the Convention, so far as it is necessary for the effective exercise of their functions.
- (5) Notwithstanding paragraph 1 of this Article, officials, representatives of Member Countries and experts who are South African nationals or residents shall only be entitled to immunity from legal process in respect of words spoken or written and in all acts performed by them in their official capacity, and subject to the reservations to the Convention made by South Africa, none of the other provisions of this Agreement shall be deemed to modify or amend the Convention and its Annex XVI, or the Agreement Establishing IFAD, or impair or limit the rights, immunities, privileges, exemptions or facilities provided for and specified in the Convention, its Annex XVI and in the Agreement Establishing IFAD.
- (6) The Fund shall inform the Government timeously of the names, ranks and designations of officials, representatives of Member Countries and experts.

ARTICLE IX
INTERPRETATION AND SETTLEMENT OF DISPUTES

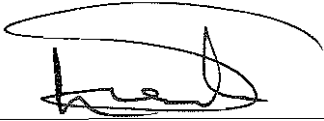
- (1) This Agreement shall be interpreted in the light of its principal objective, which is to enable the Office to carry out its activities fully and efficiently.
- (2) Where an allegation is substantiated, the party in breach shall undertake in writing to remedy the breach and notify the other party in writing the measures taken or proposed to be taken to remedy the breach and prevent further breaches.
- (3) Any major dispute between the Government and the Fund concerning the interpretation or application of this Agreement, or of any supplementary arrangement, which is not settled by negotiation shall, unless the parties agree otherwise, be referred for final decision to a tribunal of three (3) arbitrators, one to be named by the Government, one to be named by the President of the Fund, and the third, who shall chair the tribunal, to be chosen by mutual agreement by the other two arbitrators.
- (4) Should the first two arbitrators fail to agree on the choice of the third within six (6) months following their appointment, the third arbitrator shall be named by the President of the International Court of Justice, unless he or she is a national of the Republic of South Africa, in which case the third arbitrator shall be named by the Vice-President of the International Court of Justice.
- (5) Each Party to this Agreement shall bear the cost of its representative(s) (arbitrator(s)) and both Parties shall equally pay the cost of the third arbitrator.
- (6) The decisions of the tribunal of arbitrators shall be fully binding.

ARTICLE X
COMMENCEMENT, AMENDMENT AND TERMINATION OF
AGREEMENT

- (1) The provisions of this Agreement shall come into force on the day of receipt of the last notification by a Party of the completion of its relevant internal procedures.
- (2) This Agreement will remain in force while the Office remains established in the Republic of South Africa.
- (3) This Agreement may be amended by mutual written agreement, and may be terminated by either party upon giving six (6) months' notice of its intention to terminate the Agreement.
- (4) The obligations assumed by the Government and the Fund under this Agreement shall survive its termination to the extent necessary to permit the orderly withdrawal of the property, funds and assets of the Fund and the officials and other persons performing services on behalf of the Fund.

IN WITNESS WHEREOF the undersigned, duly authorised representatives of the Government and the Fund respectively have, on behalf of both parties, signed this Agreement in English in two original copies.

DONE AT Rome ON 7 DAY OF March IN
THE YEAR 2019.



FOR THE GOVERNMENT OF
THE REPUBLIC OF
SOUTH AFRICA

Ms Lindiwe N. Sisulu
Minister of International
Relations and Cooperation



FOR THE INTERNATIONAL FUND
FOR AGRICULTURAL
DEVELOPMENT

Mr Gilbert F. Houngbo
President