

No. 31260

**UNITED NATIONS
(UNITED NATIONS DEVELOPMENT PROGRAMME)
and
SOUTH AFRICA**

**Basic Agreement concerning assistance by the United Nations
Development Programme to the Government of South
Africa (with exchange of letters). Signed at New York on
3 October 1994**

Authentic text: English.

Registered ex officio on 3 October 1994.

**ORGANISATION DES NATIONS UNIES
(PROGRAMME DES NATIONS UNIES
POUR LE DÉVELOPPEMENT)
et
AFRIQUE DU SUD**

**Accord de base relatif à une assistance du Programme des
Nations Unies pour le développement au Gouvernement
sud-africain (avec échange de lettres). Signé à New York
le 3 octobre 1994**

Texte authentique : anglais.

Enregistré d'office le 3 octobre 1994.

AGREEMENT¹ BETWEEN THE REPUBLIC OF SOUTH AFRICA AND THE UNITED NATIONS DEVELOPMENT PROGRAMME

Whereas the General Assembly of the United Nations has established the United Nations Development Programme (hereinafter referred to as “the UNDP”) to support and supplement the national efforts of developing countries at solving the most important problems of their economic development and to promote social progress and better standards of life; and

Whereas the Government of the Republic of South Africa (hereinafter referred to as “the Government”) wishes to avail itself of development assistance from the UNDP for the benefit of the people of the Republic of South Africa;

Now therefore the Government and the UNDP (hereinafter referred to as “the Parties”) have entered into this Agreement in a spirit of friendly co-operation.

Article I

SCOPE OF THIS AGREEMENT

1. This Agreement embodies the basic conditions in terms of which the UNDP and its Executing Agencies shall assist the Government in carrying out the Government’s development projects, and in terms of which such UNDP-assisted projects shall be formulated and executed. This Agreement shall apply to all such UNDP assistance and to such documents and other instruments (hereinafter referred to as “Project Documents”) as the Parties may conclude to specify the particulars of such assistance and the respective obligations of the Parties and the Executing Agencies.

2. Assistance shall be provided by the UNDP in terms of this Agreement only in response to a request submitted by the Government and approved by the UNDP. The requested assistance shall be made available to the Government, or to an entity designated by the Government, and shall be furnished and received in accordance with the relevant and applicable resolutions and decisions of the competent UNDP organs, subject to the availability of the necessary funds to the UNDP.

Article II

FORMS OF ASSISTANCE

1. Assistance which may be made available by the UNDP to the Government in terms of this Agreement may consist of:

(a) The services of advisory experts and consultants, including consultant firms and organizations, selected, in consultation with the Government, by, and responsible to, the UNDP or the Executing Agency of the UNDP concerned;

(b) The services of operational experts selected, in consultation with the Government, by the Executing Agency concerned, to perform functions of an oper-

¹ Came into force provisionally on 3 October 1994 by signature, in accordance with article XIII (1).

ational, executive or administrative character as civil servants of the Government or as employees of entities referred to in sub-article 2 of Article I;

(c) The services of members of the United Nations Volunteers (hereinafter referred to as “volunteers”);

(d) Equipment and supplies not readily available in the Republic of South Africa (hereinafter referred to as “the Republic”);

(e) Seminars, training programmes, demonstration projects, expert working groups and related activities which are relevant to the needs of the people of the Republic;

(f) Scholarship and fellowships, or similar arrangements under which candidates nominated by the Government and approved by the Executing Agency concerned may study or receive training; and

(g) Any other form of assistance which may be agreed upon by the Parties.

2. A request for assistance in terms of this Agreement shall be made by the Government to the UNDP through the UNDP Resident Representative referred to in sub-article 4 of this Article, which request shall be in the form and in accordance with procedures established by the UNDP for the request concerned. The Government shall provide the UNDP with all appropriate facilities and relevant information to appraise the request, including an expression of its intent with respect to the follow-up of investment-oriented projects.

3. Assistance may be provided by the UNDP to the Government either directly, with such external assistance as the Parties may deem appropriate, or through an Executing Agency, which shall have primary responsibility for carrying out the UNDP assistance to the project and which shall have the status of an independent contractor for this purpose. Where assistance is provided by the UNDP directly to the Government, all references in this Agreement to an Executing Agency shall be a reference to the UNDP, unless the context indicates otherwise.

4. The UNDP may maintain a permanent mission in the Republic, headed by the UNDP Resident Representative, who shall have the functions referred to in this Agreement.

5. If the UNDP Resident Representative is also designated by the Secretary-General of the United Nations as the Resident Coordinator, he or she shall, without prejudice to the functions referred to in sub-article 6 below, on behalf of the United Nations system, have over-all responsibility for, and shall undertake the coordination of, operational activities for development of all organizations of the United Nations system at the national level. He or she shall exercise team leadership and be responsible for evolving, at the national level, an integrated and multi-disciplinary programme and approach to development assistance. He or she shall carry out the said functions in conformity with the objectives and priorities of the Government.

6. The Resident representative shall have full responsibility and ultimate authority, on behalf of the UNDP Administrator, for the entire UNDP programme in the Republic. The Resident Representative shall assist the Government, as may be required, in the preparation of the UNDP country programmes and project requests and changes therein. The Resident Representative shall be the principal channel of communication with the Government regarding all programme matters, assure proper coordination of all assistance rendered by the UNDP through Executing Agencies or other means, and assist the Government, as may be required, in co-

ordinating the UNDP finance activities with national, bilateral and multilateral programmes in the Republic. The Resident Representative shall also perform such other functions as may be entrusted to him or her by the UNDP Administrator or by an Executing Agency.

7. The UNDP Mission in the Republic shall have such other staff as the UNDP may deem appropriate to the Mission's proper functioning. The UNDP shall notify the Government from time to time of the names and status of the members, and of the families of the members, of the Mission, and of any changes in the status of such persons.

Article III

EXECUTION OF PROJECTS

1. The Government shall remain responsible for its UNDP-assisted development projects and the realization of their objectives as contained in the relevant Project Documents, and shall carry out such parts of such projects as may be stipulated in the provisions of this Agreement and such Project Documents. The UNDP undertakes to complement and supplement the Government's participation in each UNDP-assisted project through assistance to the Government in fulfilling its intent with respect to investment follow-up. The Government shall inform the UNDP of the Government Cooperating Agency directly responsible for the Government's participation in each UNDP-assisted project. Without derogating from or prejudice to the Government's overall responsibility for its project, the Parties may agree that an Executing Agency shall assume primary responsibility for the execution of a project in consultation and agreement with the Government Cooperating Agency, and any arrangements in this regard shall be stipulated in the Project Work Plan forming part of the Project Document concerned together with arrangements, if any, for the transfer of such primary responsibility, in the course of project execution, to the Government or to an entity designated by the Government.

2. Compliance by the Government with any prior obligations agreed to be necessary or appropriate for the UNDP assistance to a particular project shall be a condition of performance by the UNDP and the Executing Agency of their responsibilities with respect to that project. Should be provision of such assistance be commenced before such prior obligations have been met, it may be terminated or suspended without notice and at the discretion of the UNDP.

3. Any agreement between the Government and an Executing Agency concerning the execution of a UNDP-assisted project or between the Government and an operational expert shall be subject to the provisions of this Agreement.

4. The Government Cooperating Agency shall, as appropriate and in consultation with the Executing Agency, assign a full-time manager for each project who shall perform such functions as are assigned to him or her by the Government Cooperating Agency. The Executing Agency shall, as appropriate and in consultation with the Government, appoint a Chief Technical Adviser or Project Coordinator responsible to the Executing Agency to oversee the Executing Agency's participation in the project at the project level. That person shall supervise and coordinate the activities of experts and other Executing Agency personnel and be responsible for on-the-job training of national Government counterparts. That person shall also

be responsible for the management and efficient utilization of all UNDP-financed inputs, including the equipment provided for the project concerned.

5. Advisory experts, consultants and volunteers shall, in the performance of their duties, act in close consultation with the Government and with the persons or bodies designated by the Government, and shall comply with such instructions from the Government as may be appropriate to the nature of their duties and the assistance to be given and as may be mutually agreed upon between the Parties and the Executing Agency concerned. Operational experts shall be solely responsible to, and be under the exclusive direction of, the Government or the entity to which they are assigned, but shall not be required to perform any functions incompatible with or derogating from their international status or incompatible with the purposes of the UNDP or of the Executing Agency. The Government shall use its best efforts to ensure that the commencing date of the services of each operational expert shall coincide with the effective date of his or her contract with the Executing Agency concerned.

6. Fellowships contemplated in sub-article 1 (*f*) of Article II shall be administered in accordance with the fellowship policies and practice of the Executing Agency: Provided that the UNDP shall not pay the salaries of trainees and recipients of fellowships during the period of their respective fellowships.

7. Technical and other equipment, materials, supplies and other property financed or provided by the UNDP, shall remain the property of the UNDP, unless and until such time as ownership thereof is transferred to the Government or to an entity nominated by the Government on terms and conditions mutually agreed upon between the Parties.

8. The Parties agree to cooperate and exchange information on any discoveries, inventions or works resulting from the UNDP-assisted programmes provided for in this Agreement, and to take such steps as are necessary through registration or otherwise, to ensure their most efficient and effective use and exploitation, free of royalties, by the Parties in the Republic.

9. Patent rights, copyrights, and other similar intellectual property rights in any discoveries, inventions or works which are solely and specifically invented by experts and/or other persons engaged by the Government in the execution of programmes and projects in terms of this Agreement, or resulting from programmes or projects fully funded by the Government in terms of this Agreement, shall be the property of the Government: Provided that the UNDP shall be entitled to the use and exploitation of the said intellectual property rights in its programmes and projects outside the Republic, free of royalties or other charges.

10. Except as provided for in sub-article 9, title to any patent rights, copyrights, and other similar intellectual property rights in any discoveries, inventions or works resulting from UNDP-assisted programmes and projects in terms of this Agreement shall vest in the UNDP: Provided that the Government shall in the said cases be entitled to the use and exploitation of the said intellectual property rights within the Republic, free of royalties or other charges.

11. Where, following consultations between the Parties and agreement with the Government, the execution of a programme or project is entrusted to the Government for national execution, the Parties shall, by an Exchange of Letters, establish the terms and conditions governing the implementation of the programme or project. The Exchange of Letters shall be supplementary to this Agreement.

Article IV

INFORMATION CONCERNING PROJECTS

1. Subject to the laws in force in the Republic, the Government shall furnish the UNDP with the relevant reports, maps, accounts, records, statements, documents and other information as the UNDP may request concerning any UNDP-assisted project, its execution or its continued feasibility and soundness, or concerning the compliance by the Government with its obligations referred to in this Agreement or in the Project Documents.

2. The UNDP undertakes that the Government shall be kept periodically informed of the progress of the UNDP's assistance activities as provided for in this Agreement. The Parties shall have the right, at any time, to observe and monitor the progress of the operations on the UNDP-assisted projects.

3. The Government shall, subsequent to the completion of a UNDP-assisted project, make available to the UNDP at its request information concerning the benefits derived from the project concerned and activities undertaken to further the purposes of that project, including information necessary or appropriate to that project's evaluation or to the evaluation of the UNDP assistance, and the Government shall consult with and permit observation by the UNDP for this purpose.

4. Any information or material which the Government is required to provide to the UNDP in terms of this Article shall be made available by the Government to an Executing Agency at the request of the Executing Agency concerned.

5. The Parties shall consult each other regarding the publication, as appropriate, of any information relating to any UNDP-assisted project or to benefits derived therefrom: Provided that any information relating to any investment-oriented project may be released by the UNDP to potential investors, unless and until the Government has requested the UNDP in writing to restrict the release of information relating to that project.

*Article V*PARTICIPATION AND CONTRIBUTION OF GOVERNMENT
IN EXECUTION OF PROJECT

1. The Government shall, in participating and cooperating in the execution of the projects assisted by the UNDP in terms of this Agreement, contribute locally available resources in kind, to the extent agreed upon in the relevant Project Documents: Provided that in such Project Documents, due regard shall be paid to the budgetary resources available.

2. If the provision of equipment forms part of the UNDP assistance to the Government, the Government shall defray the charges relating to customs clearance of the equipment.

3. If so provided for in the relevant Project Document, the Government shall pay, or arrange to pay, to the UNDP or an Executing Agency, the sums required, to the extent specified in the Project Budget of the Project Document, for the provision of any of the locally available resources contemplated in sub-article 1, whereupon the Executing Agency shall obtain the necessary items and account annually to the UNDP for any payments made in terms of this Article.

4. Monies payable to the UNDP in terms of sub-article 3, shall be paid to an account in the Republic designated by the Secretary-General of the United Nations, which account shall be administered in accordance with the applicable financial regulations of the UNDP.

5. The cost of items constituting the Government's contribution to the project and any sums payable by the Government in terms of this Article, as specified in the Project Budgets, shall be considered as estimates based on the best information available at the time of preparation of the relevant Project Budget. Those sums shall be subject to adjustment whenever necessary to reflect the actual cost of any items purchased thereafter.

6. The Government shall display an appropriate sign at each project identifying the project concerned as one assisted by the UNDP and the Executing Agency.

Article VI

ASSESSED PROGRAMME COSTS PAYABLE IN LOCAL CURRENCY

1. In addition to the contribution referred to in Article V above, the Government shall assist the UNDP by paying or arranging to pay for the following local costs or facilities, in the amounts agreed to in the relevant Project Document, or as the Government and the UNDP may otherwise mutually agree in accordance with the relevant decisions of the UNDP Governing Bodies;

(a) The local living costs of advisory experts and consultants assigned to projects in the Republic;

(b) Local administrative and clerical services, including necessary local secretariat help, interpreter-translators, and related assistance;

(c) Transportation of personnel within the Republic; and

(d) Postage and telecommunications for official purposes.

2. The Government shall also pay each operational expert directly the salary, allowances and other related emoluments which would be payable to one of its nationals if appointed to the post concerned. The Government shall grant an operational expert the same annual and sick leave as the Executing Agency concerned grants its own officials, and shall endeavour to make the necessary arrangements to permit an operational expert to take home leave to which he or she is entitled in terms of his or her service with the Executing Agency concerned. Should his or her service with the Government be terminated by it under circumstances which give rise to an obligation on the part of an Executing Agency to pay him or her an indemnity under its contract with him or her, the Government shall contribute to the cost thereof the amount of dismissal indemnity which would be payable to a national civil servant or comparable employee of like rank whose service is similarly terminated.

3. The Government undertakes to furnish in kind the following local services and facilities as agreed to by the Parties:

(a) The necessary office space and other premises;

(b) Such medical facilities and services for international personnel under the same conditions as are available to national civil servants; and

(c) Simple but adequately furnished accommodation for international personnel, and the provision of such housing to operational experts under the same conditions as to national civil servants of comparable rank.

4. The Government shall also contribute towards the expenses of maintaining the UNDP Mission in the Republic by paying annually to the UNDP a lump sum mutually agreed upon between the Parties to cover the following expenditures:

(a) An appropriate office with equipment and administrative supplies, adequate to serve as local headquarters for the UNDP in the Republic;

(b) Appropriate local secretarial and clerical help, interpreters, translators and related assistance;

(c) Transportation of the Resident Representative and his or her staff for official purposes within the Republic;

(d) Postage and telecommunications for official purposes; and

(e) Subsistence for the Resident Representative and his or her internationally-recruited staff while in official travel status within the Republic.

5. The Government shall have the option of providing in kind the facilities referred to in sub-article 4 above with the exception of the expenditures referred to in paragraphs (b) and (e) of sub-article 4.

6. Monies payable in terms of this Article, other than in terms of sub-article 2, shall be paid by the Government and administered by the UNDP in accordance with sub-article 5 of Article V.

Article VII

RELATION TO ASSISTANCE FROM OTHER SOURCES

If assistance towards the execution of a project is obtained by a Party from other sources, the Parties shall consult each other and the Executing Agency with a view to the effective co-ordination and utilization of assistance received by the Government from all sources. The obligations of the Government in terms of this Agreement shall not be affected by any arrangements the Government may enter into with such other entities cooperating with it in the execution of a project.

Article VIII

USE OF ASSISTANCE

The Government shall exert its best efforts to make the most effective use of the assistance provided by the UNDP and shall use such assistance for the purpose for which it is intended. Without restricting the generality of the foregoing, the Government shall take such steps as may be specified in the Project Document concerned.

Article IX

PRIVILEGES AND IMMUNITIES

1. The Government shall apply to the United Nations and its organs, including the UNDP and UN subsidiary organs acting as UNDP Executing Agencies, their

property, funds and assets, and to their officials, including the Resident Representative and other members of the UNDP mission in the Republic, the provisions of the Convention on the Privileges and Immunities of the United Nations adopted by the United Nations General Assembly on 13 February 1946.¹

2. The Government shall apply to each Specialized Agency acting as an Executing Agency, its property, funds and assets, and to its officials, the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies adopted by the United Nations General Assembly on 21 November 1947,² including any Annex to the Convention applicable to such Specialized Agency. If the International Atomic Energy Agency (hereinafter referred to as “the IAEA”) acts as an Executing Agency, the Government shall apply to its property, funds and assets, and to its officials and experts, the Agreement on the Privileges and Immunities of the IAEA.³

3. Members of the UNDP Mission in the Republic shall be granted such additional privileges and immunities as may be necessary for the effective performance by the Mission of its functions. In this respect, the Resident Coordinator, the Resident Representative and other senior officials as may be agreed upon between the United Nations and the Government, shall enjoy the same privileges and immunities accorded by the Government to members of diplomatic missions of comparable ranks, and their names shall be incorporated in the diplomatic list of the Government.

4. Except as the Parties may otherwise agree in Project Documents relating to specific projects, the Government shall grant all persons, excluding nationals of the Republic recruited locally, performing services on behalf of the UNDP, a Specialized Agency or the IAEA, who are not mentioned in sub-articles 1 and 2, the same privileges and immunities as are accorded to officials of the United Nations, the Specialized Agency concerned or the IAEA under Section 18 of the Convention on the Privileges and Immunities of the United Nations, Section 19 of the Convention on the Privileges and Immunities of the Specialized Agencies, and section 18 of the Agreement on the Privileges and Immunities of the IAEA, respectively.

5. With regard to the instruments on privileges and immunities referred to in the preceding parts of this Article:

(a) All papers and documents relating to a project in the possession or under the control of the persons referred to in sub-Article 4, shall be deemed to be documents belonging to the United Nations, the Specialized Agency concerned, or the IAEA, as the case may be; and

(b) Equipment, materials and supplies brought into or purchased or leased by those persons within the Republic for purposes of a project shall be deemed to be property of the United Nations, the Specialized Agency concerned, or the IAEA, as the case may be.

6. The expression “persons performing services” referred to in Articles IX, X and XIII of this Agreement includes operational experts, volunteers, consultants, and juristic as well as natural persons and their employees. It includes governmental

¹ United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1, p. 18).

² *Ibid.*, vol. 33, p. 261. For the final and revised texts of annexes published subsequently, see vol. 71, p. 318; vol. 79, p. 326; vol. 117, p. 386; vol. 275, p. 298; vol. 314, p. 308; vol. 323, p. 364; vol. 327, p. 326; vol. 371, p. 266; vol. 423, p. 284; vol. 559, p. 348; vol. 645, p. 340; vol. 1057, p. 320; vol. 1060, p. 337, and vol. 1482, p. 244.

³ *Ibid.*, vol. 374, p. 147.

or non governmental organizations or firms which the UNDP may retain, whether as an Executing Agency or otherwise, to execute or to assist in the execution of the UNDP assistance to a project, and their employees. Nothing in this Agreement shall be construed to limit the privileges, immunities or facilities conferred upon such organizations or firms or their employees in any other instrument.

Article X

FACILITIES FOR EXECUTION OF UNDP ASSISTANCE

1. The Government shall take such measures as may be necessary to exempt the UNDP, its Executing Agencies, their experts and other persons performing services on their behalf from regulations or other legal provisions which may interfere with operations under this Agreement, and shall grant them such other facilities as may be necessary for the speedy and efficient execution of the UNDP assistance, having due regard to considerations of public health and safety. The Government shall, in particular, grant them the following rights and facilities:

(a) Prompt clearance of experts and other persons performing services on behalf of the UNDP or an Executing Agency;

(b) Prompt issuance without cost of necessary visas, licenses or permits;

(c) Access to the site of work and all necessary rights of way;

(d) Free movement within or to or from the Republic, to the extent necessary for the proper execution of the UNDP assistance;

(e) The most favourable legal rate of exchange;

(f) Any permits necessary for the importation of equipment, materials and supplies, and for their subsequent exportation;

(g) Any permits necessary for the importation of property belonging to and intended for the personal use or consumption of officials of the UNDP, its Executing Agencies, or other persons performing services on their behalf, and for the subsequent exportation of such property; and

(h) Prompt release from customs of the items mentioned in paragraphs (f) and (g) above.

2. Since the assistance provided for in this Agreement is for the benefit of the Government and the people of the Republic, the Government shall bear all risks of operations arising in terms of this Agreement. The Government shall be responsible for dealing with claims which may be brought by third parties against the UNDP or an Executing Agency, their officials or other persons performing services on their behalf, and shall hold them harmless in respect of claims or liabilities arising from operations under this Agreement. The provisions of this sub-article shall not apply if the Parties and the Executing Agency are in agreement that a claim or liability arises from the gross negligence or wilful misconduct of the individuals referred to in this sub-article.

Article XI

SUSPENSION OR TERMINATION OF ASSISTANCE

1. The UNDP may, by written notice to the Government and to the Executing Agency concerned, suspend its assistance to any project if in the opinion of the UNDP any circumstances arise which interfere with or threaten to interfere with the successful completion of the project or the accomplishment of the purposes of that project. The UNDP may, in the same or a subsequent written notice, set out the conditions under which the UNDP is prepared to resume its assistance to the project concerned. Any such suspension shall continue until such time as those conditions are accepted by the Government and until the UNDP has given written notice to the Government and the Executing Agency that it is prepared to resume its assistance.

2. If any suspension referred to in sub-article 1 continues for a period of fourteen days after notice thereof, the UNDP may, at any time thereafter during the continuance thereof, by written notice to the Government and the Executing Agency, terminate its assistance to the project.

3. The provisions of this Article shall be without prejudice to any other rights or remedies the UNDP may have in the circumstances, whether under general principles of law or otherwise.

Article XII

SETTLEMENT OF DISPUTES

1. Any dispute between the Parties arising out of or relating to this Agreement which is not settled by negotiation or other agreed mode of settlement, shall, at the request of either Party, be submitted to a Tribunal of three arbitrators. Each Party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint a third, who shall be the chairman of the Tribunal. If, within thirty days of the request for arbitration, a Party has not appointed an arbitrator or if, within fifteen days of the appointment of two arbitrators, the third arbitrator has not been appointed, either Party may request the President of the International Court of Justice to appoint the arbitrator referred to. The Tribunal shall determine its own procedures, provided that any two arbitrators shall constitute a quorum for all purposes, and all decisions shall require the agreement of any two arbitrators. The expenses of the Tribunal shall be borne by the Parties as assessed by the Tribunal. The arbitral award shall contain a statement of the reasons on which it is based and shall be final and binding on the Parties.

2. Any dispute between the Government and an operational expert arising out of or relating to the conditions of his or her service with the Government may be referred, by either the Government or the operational expert involved, to the Executing Agency providing the operational expert, by either the Government or the operational expert involved, and the Executing Agency concerned shall use its good offices to assist them in arriving at a settlement. If the dispute cannot be settled in accordance with the preceding sentence or by other agreed mode of settlement, the matter shall at the request of either Party be submitted to arbitration following the same provisions as are laid down in paragraph 1 of this Article, except that the arbitrator not appointed by either Party or by the arbitrators of the Parties shall be appointed by the Secretary-General of the Permanent Court of Arbitration.

Article XIII

GENERAL PROVISIONS

1. This Agreement shall be subject to ratification by the Parliament of the Republic, and shall come into force upon receipt by the UNDP of the notification from the Government of its ratification. Pending such ratification, it shall be given provisional effect by the Parties. It shall continue in force until terminated as contemplated in sub-article 3. Upon the entry into force of this Agreement, it shall supersede any existing Agreements concerning the provision of development assistance to the Government out of the UNDP resources and concerning the UNDP office in the Republic, and it shall apply to all assistance provided to the Government and to the UNDP office established in the Republic in terms of the provisions of the Agreements thus superseded.

2. This Agreement may be amended by written agreement between the Parties. Any relevant matter for which no provision is made in this Agreement shall be settled by the Parties in keeping with the relevant resolutions and decisions of the appropriate organs of the United Nations. Each Party shall give full and sympathetic consideration to any proposal advanced by the other Party in terms of this sub-article.

3. This Agreement may be terminated by either Party by giving written notice to the other Party and it shall terminate sixty days after receipt of such notice.

4. The obligations incurred by the Parties in terms of Articles IV and VIII shall not expire on termination of this Agreement. The obligations incurred by the Government in terms of Articles IX, X and XII shall not expire on the termination of this Agreement but shall subsist to the extent necessary to permit orderly withdrawal of personnel, funds and property of the UNDP and of any Executing Agency, or of any persons performing services on their behalf in terms of this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized thereunto by the Parties respectively, have signed this Agreement.

DONE at New York City, New York, United States of America this 3rd day of October, in the year Nineteen Hundred and Ninety-four.

For the United Nations Development Programme:

JAMES GUSTAVE SPETH
Administrator

For the Government
of the Republic of South Africa:

NELSON ROLIHLAHLA MANDELA
President

EXCHANGE OF LETTERS

I

OFFICE OF THE PRESIDENT

3 October 1994

Sir,

I have the honour to refer to the Agreement signed today by and between the Government of the Republic of South Africa (the Government) and the United Nations Development Programme (the UNDP), concerning development assistance to be provided by the UNDP to the Government.

It would like to propose that:

(a) The contribution of the Government in respect of its obligations under Article VI of the Agreement shall be provided as may be agreed by the parties, to the extent possible, and within budgetary resources;

(b) In the case of the obligations in Article VI (3), the Government's contribution will be limited to providing the UNDP with appropriate office space, adequate to serve as the headquarters of the UNDP Mission in the Republic of South Africa for a period of five years, commencing on a date and on terms to be agreed upon by the Government and the UNDP. During this period the Government and the UNDP shall review the requirements of the UNDP in accordance with this Agreement including the extension of the proposed arrangements and possible expansion of the office premises to suit the longer term needs of the UNDP;

(c) Without prejudice to the provisions of Article IX, the Government wishes to indicate that it is not a signatory to the Conventions on the Privileges and Immunities of the United Nations, of the Specialized Agencies and of the International Atomic Energy Agency, but is currently considering its accession thereto in accordance with the terms of those Conventions;

(d) With regard to Article X (1) (e), it is agreed that the most favourable legal rate of exchange shall be the prevailing market exchange rate within the ambit of the exchange control laws in force in the Republic of South Africa.

If this proposal is acceptable I have the honour to suggest that this letter and your reply to that effect will be regarded as constituting an agreement on these matters.

Accept, Sir, the assurances of my highest consideration.

NELSON ROLIHLAHLA MANDELA
President of the Republic of South Africa

Mr. James Gustave Speth
Administrator of the United Nations
Development Programme

II

UNITED NATIONS DEVELOPMENT PROGRAMME
THE ADMINISTRATOR

3 October 1994

Sir,

I have the honour to refer to your letter of today's date relating to the Agreement by and between the Government of the Republic of South Africa (the Government) and the United Nations Development Programme (the UNDP), on 3 October 1994, concerning development assistance to be provided by the UNDP to the Government.

In this regard, I wish to inform you that the United Nations Development Programme accepts the proposals contained in the letter that:

[*See letter I*]

It is understood that your aforementioned letter and this reply will be regarded as constituting an agreement on this matter.

Accept, Sir, the assurances of my highest consideration.

JAMES GUSTAVE SPETH

Dr. Nelson Rolihlahla Mandela
President of the Republic of South Africa
