

No. 50572*

**Preparatory Commission for the Comprehensive Nuclear
Test-Ban Treaty Organization
and
Namibia**

Agreement between the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization and the Government of the Republic of Namibia on the conduct of activities, including post-certification activities, relating to international monitoring facilities for the Comprehensive Nuclear-Test-Ban Treaty (with appendix). Windhoek, 1 April 2009

Entry into force: *1 April 2009 by signature, in accordance with article 22*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Preparatory Commission for the Comprehensive Nuclear Test-Ban Treaty Organization, 4 March 2013*

**No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.*

**Commission préparatoire pour l'Organisation du Traité
d'interdiction complète des essais nucléaires
et
Namibie**

Accord entre la Commission préparatoire de l'Organisation du Traité d'interdiction complète des essais nucléaires et le Gouvernement de la République de Namibie sur la conduite des activités relatives aux installations de surveillance internationale, y compris les activités postérieures à la certification dans le cadre du traité d'interdiction complète des essais nucléaires (avec annexe). Windhoek, 1 avril 2009

Entrée en vigueur : *1er avril 2009 par signature, conformément à l'article 22*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Commission préparatoire pour l'Organisation du Traité d'interdiction complète des essais nucléaires, 4 mars 2013*

- * Numéro de volume RTNU n'a pas encore été établie pour ce dossier. Les textes reproduits ci-dessous, s'ils sont disponibles, sont les textes authentiques de l'accord/pièce jointe d'action tel que soumises pour l'enregistrement et publication au Secrétariat. Pour référence, ils ont été présentés sous forme de la pagination consécutive. Les traductions, s'ils sont inclus, ne sont pas en form finale et sont fournies uniquement à titre d'information.

[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT
BETWEEN
THE PREPARATORY COMMISSION FOR THE
COMPREHENSIVE NUCLEAR-TEST-BAN TREATY ORGANIZATION
AND
THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA
ON THE CONDUCT OF ACTIVITIES,
INCLUDING POST-CERTIFICATION ACTIVITIES,
RELATING TO
INTERNATIONAL MONITORING FACILITIES
FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY**

In accordance with paragraph 12(b) of the Text on the Establishment of a Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, as annexed to the Resolution establishing the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (“the Commission”), adopted by the meeting of States Signatories of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) on 19 November 1996 at New York, the Commission and the Government of the Republic of Namibia (“Namibia”), hereinafter “the Parties”, with the goal of facilitating the activities of the Commission in: (a) conducting an inventory of existing monitoring facilities; (b) conducting a site survey; (c) upgrading or establishing monitoring facilities; and/or (d) certifying facilities to International Monitoring System (IMS) standards, and with the goal of facilitating the continued testing, provisional operation, as necessary, and maintenance of the IMS in pursuit of the goal of an effective Treaty, have agreed, pursuant to the provisions of the CTBT, in particular Articles I to IV and Part I of the Protocol, as follows:

Article 1

The Government of Namibia and the Commission shall cooperate to facilitate the implementation of the provisions of this Agreement. The activities to be carried out by or on behalf of the Commission in Namibia are or will be set forth in the Appendix or Appendices to this Agreement. Appendices may be added or removed from time to time by mutual agreement of the Parties.

Article 2

The activities to be carried out on behalf of the Commission pursuant to the provisions of this Agreement shall be performed according to the terms and conditions of a contract or contracts awarded by the Commission in accordance with the provisions of the Financial Regulations and Rules of the Commission.

Article 3

Where activities pursuant to the provisions of this Agreement are to be carried out by the Commission, the activities shall be conducted by the Commission Team, which shall consist of the personnel that shall, after consultations with the Government of Namibia, be designated by the Commission. The Government of Namibia shall be entitled to refuse particular Commission Team members on the understanding that the Commission will be entitled to propose new Team members to replace them. For each activity carried out by the Commission, the Commission shall designate a Team Leader and the Government of Namibia shall designate an Executive Agent to be the points of contact between the Commission and the Government of Namibia.

Article 4

No less than 14 days in advance of the proposed arrival of the Commission Team at the point of entry, the Commission Team Leader and the Executive Agent shall consult for the

purpose of facilitating the conduct of the activities that will be undertaken, including consultations regarding the equipment to be brought into Namibia by the Commission Team for carrying out the activities undertaken in accordance with the provisions of this Agreement. For post-certification activities, such equipment should be in accordance with the relevant IMS Operational Manuals adopted by the Commission without prejudice to Article II, paragraph 26(h), of the CTBT. In the course of these consultations, the Government of Namibia shall inform the Commission of the points of entry and exit through which the Commission Team and equipment will enter and exit the territory of Namibia.

Article 5

During the consultations noted in Article 4 above, the Government of Namibia shall apprise the Commission of information required for Namibia to issue documents to enable the Commission Team to enter and remain on the territory of Namibia for the purpose of carrying out activities consistent with the relevant IMS Operational Manuals adopted by the Commission without prejudice to Article II, paragraph 26(h), of the CTBT and set forth in the Appendix or Appendices to this Agreement/Arrangement. The Commission shall provide that information to the Government of Namibia as soon as possible after the conclusion of those consultations. In accordance with the relevant laws and regulations of Namibia, the Commission Team shall be entitled to enter the territory of Namibia and remain there for the period of time necessary to carry out such activities. The Government of Namibia shall grant or renew as quickly as possible appropriate visas where required for members of the Commission Team.

Article 6

The activities of the Commission Team pursuant to the provisions of this Agreement shall be arranged in cooperation with Namibia so as to ensure, to the greatest degree possible, the timely and effective discharge of its functions, and the least possible inconvenience to Namibia and disturbance to any facility or area at which the Commission Team will carry out its activities.

Article 7

Namibia shall accord members of the Commission Team present on its territory such protection and amenities as may be necessary to ensure the safety and well-being of each member of the Commission Team. The provisions of the Convention on the Privileges and Immunities of the United Nations shall apply, *mutatis mutandis*, to the activities of the Commission, and its officials and experts in implementing the provisions of this Agreement.

Article 8

The Government of Namibia shall make all reasonable efforts to ensure that local entities cooperate with the activities undertaken by the Commission Team. The Commission shall take all reasonable steps necessary to ensure that the Executive Agent of Namibia is kept informed of progress or developments in relation to testing, provisional operation, as necessary, and maintenance activities.

Article 9

The Government of Namibia and the Commission shall prepare in advance a list of equipment to be brought into Namibia by the Commission Team. The Government of Namibia shall have the right to conduct an inspection of equipment brought into Namibia by the Commission Team, as specified during the consultations noted in Article 4 above, in order to ensure that such equipment is necessary and appropriate for carrying out the activities to be performed by the Commission Team. Namibia shall conduct such an inspection without the presence of the Commission Team Leader, unless the Commission Team Leader decides that his or her presence is necessary. Items of equipment that require special handling or storage for safety purposes shall be so designated by the Commission Team Leader and this designation shall be communicated to the Executive Agent prior to the arrival of the Commission Team at the point of entry. The Government of Namibia shall ensure that the Commission Team can store its equipment in a securable workspace. In order to prevent undue delays in transporting equipment,

the Government of Namibia shall assist the Commission Team in meeting the internal rules and regulations of Namibia for importing such equipment into and, where appropriate, exporting it out of Namibia.

Article 10

The equipment and other property of the Commission brought into Namibia in order to implement the provisions of this Agreement shall be exempt from customs duties. The Executive Agent shall facilitate the customs clearance of any such equipment or property. Title to any equipment transferred by the Commission to Namibia for permanent installation in monitoring facilities in accordance with the provisions of this Agreement shall immediately pass to the Government of Namibia upon entry of this equipment into the jurisdiction of Namibia.

Article 11

The Commission and its assets, income and other property shall be exempt from all direct taxes in Namibia. The Government of Namibia shall make appropriate administrative arrangements for the remission or return of any duty or tax which forms part of the price paid by the Commission in making purchases and in contracting for services pursuant to the provisions of this Agreement.

Article 12

Any data and any official reports prepared by either Party with respect to the activities undertaken in accordance with the provisions of this Agreement shall be made available to the other Party.

Article 13

For the purposes of this Agreement, post-certification activities for an IMS facility shall commence upon completion of the following two requirements:

- (i) Certification of the IMS facility by the Commission in accordance with relevant certification manuals or procedures;
- (ii) Adoption of the budget, including detailed financial arrangements, if any, for the operation and maintenance of the IMS facility by the Commission.

Article 14

For post-certification activities:

- (i) Facilities shall also be tested, provisionally operated, as necessary, and maintained by the Government of Namibia in accordance with procedures and arrangements agreed between the Parties. In order to ensure that the International Data Centre (IDC) receives high quality data with a high degree of reliability, these procedures should be consistent with the relevant IMS Operational Manuals as adopted by the Commission without prejudice to Article II, paragraph 26(h), of the CTBT.
- (ii) The Government of Namibia shall provide all appropriate utilities, consistent with the relevant IMS Operational Manuals as adopted by the Commission without prejudice to Article II, paragraph 26(h), of the CTBT, for the testing, provisional operation, as necessary, and maintenance of the facilities in accordance with relevant laws and regulations of Namibia, with costs to be met by the Commission in accordance with Article IV, paragraphs 19–21, of the CTBT and relevant budgetary decisions of the Commission.
- (iii) The Government of Namibia shall ensure that, upon request, suitable frequencies required for the necessary communications links are made available in accordance with national laws and regulations and the national frequency usage plan.

- (iv) The Government of Namibia shall transmit data recorded or acquired by any facility to the IDC using the formats and protocols to be specified in the operational manual of the facility. Such transmission of data shall be by the most direct and cost efficient means available directly from the relevant station. All communications of data to the Commission shall be free of fees and any other charges of the Government or any other competent authority in Namibia, except for charges directly related to the cost of providing a service, which shall not exceed the lowest rates accorded to governmental agencies in Namibia.
- (v) The Government of Namibia shall maintain physical security of the facilities and equipment associated with any monitoring facility, including data lines, field equipment and sensors, with costs allocated in accordance with Article IV, paragraphs 19–21 of the CTBT and relevant budgetary decisions of the Commission.
- (vi) The Government of Namibia shall ensure that the instruments at any facility are calibrated in accordance with the relevant IMS Operational Manuals as adopted by the Commission without prejudice to Article II, paragraph 26(h), of the CTBT.
- (vii) The Government of Namibia shall notify the Commission when a problem occurs, informing the IDC of the nature of the problem and providing an estimate of the expected time required to fix the problem. The Government of Namibia shall also notify the Commission when an abnormal event occurs that affects the quality of the data originating from any facility.
- (viii) The Commission shall consult with the Government of Namibia on procedures for the Commission to access a monitoring facility for checking equipment and communications links, and to make necessary changes in the equipment and other operational procedures, unless the Government of Namibia takes responsibility for making such changes. The Commission shall have access to the facility in accordance with such procedures.

Article 15

The Government of Namibia shall ensure that its monitoring facility staff respond as soon as practicable to enquiries originating from the Commission and which are related to the testing and provisional operation, as necessary, of any facility or to the transmission of data to the IDC. These responses shall be made in the format specified in the operational manual of the relevant facility.

Article 16

Confidentiality regarding the implementation of this Agreement shall be dealt with in accordance with the CTBT and the relevant decisions of the Commission.

Article 17

The costs for the activities to implement this Agreement shall be arranged in accordance with relevant budgetary decisions adopted by the Commission. In particular, the costs associated with the testing, provisional operation, as necessary, and maintenance of any facility, including physical security, if appropriate, the application of agreed data authentication procedures, the transmission of samples where appropriate, and the transmission of data from any facility to the IDC, shall be met as set forth in Article IV, paragraphs 19–21, of the CTBT and in accordance with relevant budgetary decisions of the Commission.

Article 18

Following completion of each of the activities set forth in the Appendix or Appendices, the Commission shall provide Namibia with such appropriate technical assistance as the Commission deems required for the proper functioning of any facility as part of the IMS. The Commission shall also provide technical assistance in, and support for, the provisional operation, as necessary,

and maintenance of any monitoring facility and respective communication means, where such assistance is requested by Namibia and within approved budgetary resources.

Article 19

In the case of any disagreement or dispute arising between the Parties relating to the implementation of this Agreement, the Parties shall consult with a view to the expeditious settlement of the disagreement or dispute. In the case of failure to resolve the disagreement or dispute, either Party may raise the issue at a Commission for its advice and assistance.

Article 20

Changes to this Agreement shall be made by agreement of the Parties. The Parties may enter into supplemental Agreements as they jointly determine to be necessary.

Article 21

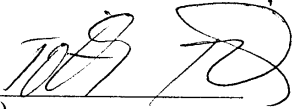
The Appendix or Appendices to this Agreement form an integral part of the Agreement and any reference to this Agreement shall be understood to include a reference to the Appendix or Appendices. In the event that there is an inconsistency between any provision in an Appendix and a provision in the body of this Agreement, the latter provision prevails.

Article 22

This Agreement shall enter into force upon signature by the Parties. This Agreement shall remain in force until conclusion of a new facility agreement between the Government of Namibia and the Comprehensive Nuclear-Test-Ban Treaty Organization after the first session of the Conference of States Parties. Either Party may terminate the Agreement by giving the other Party ninety (90) days written notice.

Signed at Windhoek on the 1st day of April 2009.

For the Preparatory Commission
for the Comprehensive Nuclear-Test-Ban
Treaty Organization:




(Signature)

Tibor Tóth
Executive Secretary

(Name and Title)

For the Government of the
Republic of Namibia:



(Signature)

Erkki Nghimtina, MP
Minister of Mines and Energy

(Name and Title)

Appendix
to the Agreement between the Preparatory Commission for the
Comprehensive Nuclear-Test-Ban Treaty Organization
and the Government of the Republic of Namibia
on the Conduct of Activities, Including Post-Certification Activities,
Relating to International Monitoring Facilities
for the Comprehensive Nuclear-Test-Ban Treaty

**MONITORING FACILITIES OF THE INTERNATIONAL MONITORING SYSTEM
HOSTED BY THE REPUBLIC OF NAMIBIA**

Any or all of the following operations may be required at the international monitoring facilities listed below:

Inventory
Site Survey
Installation
Upgrade
Testing and Evaluation
Certification
Post-certification activities

1. **Tsumeb** TSUM
Seismological Station AS67 Type 3-C

2. **Tsumeb**
Infrasound Station IS35