AGREEMENT

AMENDING

THE PROTOCOL ON TRIBUNAL

Agreement Amending the Protocol on Tribunal
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Agreement Amending the Protocol on Tribunal
PREAMBLE

We, the Heads of State or Government of:

The Republic of Angola
The Republic of Botswana
The Democratic Republic of Congo
The Kingdom of Lesotho
The Republic of Malawi
The Republic of Mauritius
The Republic of Mozambique
The Republic of Namibia
The Republic of Seychelles
The Republic of South Africa
The Kingdom of Swaziland
The United Republic of Tanzania
The Republic of Zambia
The Republic of Zimbabwe

RECOGNISING that the Protocol on Tribunal was adopted by Summit at Windhoek on 7th August 2000 and that the Protocol entered into force upon the adoption of the Agreement Amending the Treaty of the Southern African Development Community at Blantyre on the 14th August 2001;

MINDFUL that the Protocol is premised on the provisions of the Treaty;

NOTING that the provisions of the Treaty have been amended following the restructuring of SADC;

RECOGNISING that the amendment of the Treaty entails effecting amendments to the Protocol;

ACTING in pursuance of Article 37 of the Protocol,
HEREBY AGREE AS FOLLOWS:

ARTICLE 1

REPLACEMENT OF ARTICLE 1 OF THE PROTOCOL

Article 1 of the Protocol is deleted and replaced by the following new Article -

"ARTICLE 1
DEFINITIONS

1. In this Protocol, terms and expressions defined in Article 1 of the Treaty shall bear the same meaning unless the context otherwise requires.

2. In this Protocol, unless the context otherwise requires:

"Member" means a member of the Tribunal appointed in terms of Article 4 of this Protocol.

"President" means president of the Tribunal elected in terms of paragraph 1 of Article 7 of this Protocol; and

"Rules" means the Rules of Procedure referred to in Article 23 of this Protocol.".

ARTICLE 2

AMENDMENT OF ARTICLE 3 OF PROTOCOL

Article 3 of the Protocol is amended by deleting the words "States" and "State" and substituting therefor the words "Member States" and "Member State" respectively.

ARTICLE 3

AMENDMENT OF ARTICLE 4 OF THE PROTOCOL

Article 4 of the Protocol is amended, by deleting the word "State" and "States" and substituting therefor the words "Member State" and "Member States" respectively.
ARTICLE 4

AMENDMENT OF ARTICLE 9 OF THE PROTOCOL

Article 9 of the Protocol is amended by deleting the word "State" and substituting therefor the words "Member State".

ARTICLE 5

AMENDMENT OF ARTICLE 14 OF THE PROTOCOL

Article 14 of the Protocol is amended, in sub-paragraph (c), by deleting the word "States" and substituting therefor the words "Member States".

ARTICLE 6

AMENDMENT OF ARTICLE 15 OF THE PROTOCOL

Article 15 of the Protocol is amended by deleting "States" and "State" and substituting therefor the words "Member States" and "Member State" respectively.

ARTICLE 7

AMENDMENT OF ARTICLE 16 OF THE PROTOCOL

Article 16 of the Protocol is amended by deleting the words "States" and "State" and substituting therefor the words "Member States" and "Member State" respectively.

ARTICLE 8

REPLACEMENT OF ARTICLE 17 OF THE PROTOCOL

Article 17 of the Protocol is deleted and replaced by the following new Article -

"ARTICLE 17

DISPUTES BETWEEN MEMBER STATES AND COMMUNITY

1. Subject to the provisions of Article 14 of this Protocol, the Tribunal shall have exclusive jurisdiction over all disputes between Member States and the Community.”.

2. A dispute between a Member State and the Community may be referred to the Tribunal either by the Member State or by the competent institution or organ of the Community.”.
ARTICLE 9

REPLACEMENT OF ARTICLE 18 OF THE PROTOCOL

Article 18 of the Protocol is deleted and replaced by the following new Article -

"ARTICLE 18
DISPUTES BETWEEN NATURAL OR LEGAL PERSONS
AND COMMUNITY

1. Subject to the provisions of Article 14 of this Protocol, the Tribunal shall have exclusive jurisdiction over all disputes between natural or legal persons and the Community."

2. A dispute between a natural or legal person and the Community may be referred to the Tribunal either by the natural or legal person or by the competent institution or organ of the Community."

ARTICLE 10

AMENDMENT OF ARTICLE 21 OF THE PROTOCOL

Article 21 of the Protocol is amended, in sub-paragraph (b), by deleting the word "States" and substituting therefor the word "Member States".

ARTICLE 11

AMENDMENT OF ARTICLE 27 OF THE PROTOCOL

Article 27 of the Protocol is amended -

(a) in paragraph 1, by deleting "States" and substituting therefor the words "Member States" respectively; and

(b) in paragraph 2, by deleting the word "State" and substituting therefor the words "Member State".

ARTICLE 12

AMENDMENT OF ARTICLE 30 OF THE PROTOCOL

Article 30 of the Protocol is amended by deleting the word "State" and substituting therefor the words "Member State".
ARTICLE 13

AMENDMENT OF ARTICLE 31 OF THE PROTOCOL

Article 31 of the Protocol is amended by deleting the word "States" and substituting therefor the words "Member States".

ARTICLE 14

AMENDMENT OF ARTICLE 32 OF THE PROTOCOL

Article 32 of the Protocol is amended, by deleting, the words "State" and "States" wherever they appear and substituting therefor the words "Member State" and "Member States" respectively.

ARTICLE 15

REPLACEMENT OF ARTICLE 34 OF THE PROTOCOL

Article 34 of the Protocol is deleted and replaced by the following new Article –

"ARTICLE 34
SIGNATURE

This Protocol shall be signed by the Heads of State or Government or their duly authorised representatives.

ARTICLE 16

REPEAL OF ARTICLE 35 OF THE PROTOCOL

Article 35 of the Protocol is repealed.

ARTICLE 17

REPEAL OF ARTICLE 36 OF THE PROTOCOL

Article 36 of the Protocol is repealed.
ARTICLE 18

REPLACEMENT OF ARTICLE 37 OF THE PROTOCOL

Article 37 of the Protocol is deleted and replaced by the following new Article –

"ARTICLE 37
AMENDMENT

1. Any Member State may propose amendments to this Protocol.

2. Proposals for amendments to this Protocol may be made to the Executive Secretary who shall duly notify all Member States of the proposed amendments at least thirty (30) days in advance of consideration of the amendments by the Member States. Such period of notice may be waived by the Member States.

3. Amendments to this Protocol shall be adopted by a decision of three (3) quarters of all the Members of the Summit, and shall become effective within thirty (30) days after such adoption.

ARTICLE 19

REPEAL OF ARTICLE 38 OF THE PROTOCOL

Article 38 of the Protocol is repealed.

ARTICLE 20

REPLACEMENT OF ARTICLE 39 OF THE PROTOCOL

Article 39 of the Protocol is deleted and replaced by the following new Article:

"ARTICLE 39
DEPOSITARY

1. The original texts of this Protocol and all instruments of ratification and accession shall be deposited with the Executive Secretary who shall transmit certified copies to all Member States.

2. The Executive Secretary shall register this Protocol with the Secretariats of the United Nations and the Commission of the African Union (AU)."
ARTICLE 21

ENTRY INTO FORCE

This Agreement shall enter into force on the date of its adoption by three quarters of all Members of the Summit.
IN WITNESS WHEREOF, WE, the Heads of State or Government or our duly authorised Representatives, have signed this Protocol.

DONE at Luanda this 3rd day of October, 2002 in three (3) original texts in the English, French and Portuguese languages, all texts being equally authentic.

[Signatures and titles of the signatories from various African countries.]