



# **AGREEMENT**

# **AMENDING**

# **THE PROTOCOL ON TRIBUNAL**

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## **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 7<sup>th</sup> 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 14<sup>th</sup> 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.




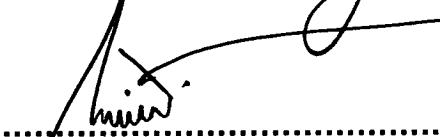
IN WITNESS WHEREOF, WE, the Heads of State or Government or our duly authorised Representatives, have signed this Protocol.

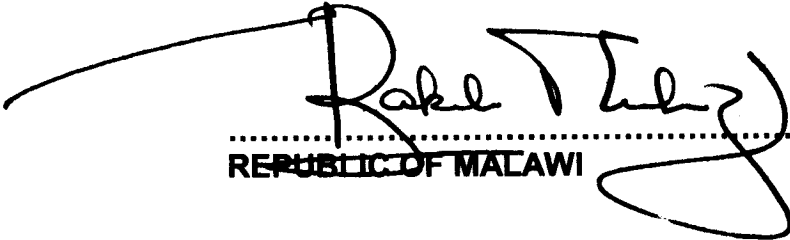
DONE at Luanda this 3<sup>rd</sup> day of October, 2002 in three (3) original texts in the English, French and Portuguese languages, all texts being equally authentic.

  
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REPUBLIC OF ANGOLA

  
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REPUBLIC OF BOTSWANA

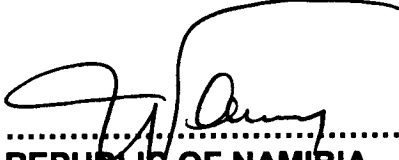
  
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DEMOCRATIC REPUBLIC OF CONGO


  
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KINGDOM OF LESOTHO

  
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REPUBLIC OF MALAWI

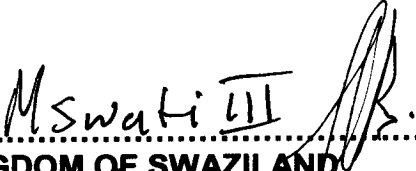
  
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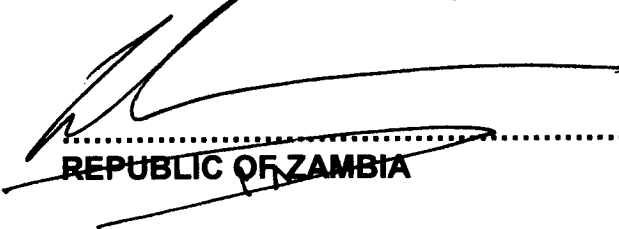
  
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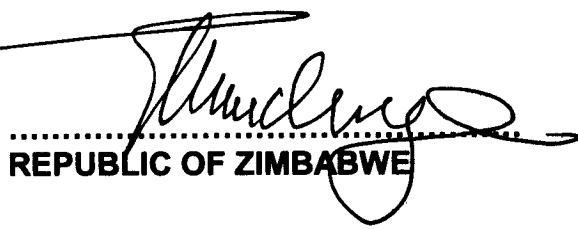
  
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UNITED REPUBLIC OF TANZANIA

  
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REPUBLIC OF ZAMBIA

  
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REPUBLIC OF ZIMBABWE