

**SPECIFIC AGREEMENT**

**between**

**THE GOVERNMENT OF THE KINGDOM OF BELGIUM**

**and**

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

**on**

**A BELGIAN-SOUTH AFRICAN STUDY AND**

**CONSULTANCY FUND**



## **PREAMBLE**

The Government of the Kingdom of Belgium (hereinafter referred to as "Belgium") and the Government of the Republic of South Africa (hereinafter referred to as "South Africa") (hereinafter jointly referred to as the "Parties" and separately as a "Party");

Considering the relationship of friendship and solidarity between the Parties;

Considering the General Agreement on Development Cooperation between the Government of the Kingdom of Belgium and the Government of the Republic of South Africa signed in Durban on the 8th of July, 2002;

Considering the Agreement Regulating Technical Assistance between the Government of the Kingdom of Belgium and the Government of the Republic of South Africa signed on the 18<sup>th</sup> of October 2002;

Referring to the Joint Commission between both Governments held in Brussels on November 10th 2006 and the resulting Indicative Cooperation Programme 2007-2010;

Hereby agree as follows:

## **ARTICLE 1 SCOPE AND OBJECTIVES**

- 1.1. The Parties agree to sign a Specific Agreement to finance a Study and Consultancy Fund, hereinafter called "the Fund".  
The Fund's objective is to strengthen the capacity of public institutions of South Africa, on the one hand in support of the prioritized sectors of the Belgian cooperation and the preparation of a new indicative program of cooperation, and on the other hand through the implementation of the Paris Declaration on harmonization and alignment of aid.
- 1.2. The Fund will finance, in whole or in part, the following:
  - In support of the priority sectors of the Belgian-South African Development Cooperation or the implementation of the Paris Declaration:
    - identification studies related to development projects or programs;
    - the preparation of terms of reference or the bidding documents for studies in case the Ministries or Government Agencies do not have the required expertise;
    - consultancies and missions of less than 12 months related to the preparation and implementation of development projects and programs;
    - strategic analysis
    - seminars or workshops;
    - consultancies and missions of less than 12 months related to the preparation, implementation and monitoring of sector strategic

- plans;
- studies, missions and seminars with regards to the integration of transversal themes (gender, environment, child rights) in the sector programs and development projects or programs.
- Preparatory studies in the context of new Belgian-South African Indicative Development Cooperation Programs;

A maximum of 25% of the Belgian contribution to the Fund can be reserved for activities in support of the implementation of the Paris Declaration on Aid Effectiveness.

If possible, the studies would be undertaken in cooperation with other donors.

- 1.3. Ministries and Government Agencies of South Africa related to the main sectors of the Indicative Bilateral Cooperation Programme, the International Development Cooperation (IDC) within the Department of National Treasury, and related sections of the Department of Foreign Affairs for the implementation of the Paris Declaration, shall be the only beneficiaries of the Fund.
- 1.4. The funding of any operation through the Fund does not commit Belgium to any further actions as follow-up of such an operation.

## **ARTICLE 2 FINANCIAL MEANS**

- 2.1. The balance of 92,207.33 EUR (ninety-two thousand two hundred and seven euro's and thirty three cent) of the previous Study and Consultancy Fund will be transferred at the opening of the new account.
- 2.2. Belgium shall extend an additional grant of 2.000.000 Euros (two million EUR), hereinafter referred to as "the contribution" to the Fund.
- 2.3. Further replenishments may be considered by means of an exchange of letters.

## **ARTICLE 3 ADMINISTRATION AND MONITORING OF THE FUND**

- 3.1. The Fund will be jointly managed by both Parties.
- 3.2. South Africa designates the Chief Directorate International Development Co-operation in the National Treasury of the Ministry of Finance, hereinafter referred to as "IDC", as the administrative entity responsible for managing the program.

Within one month of the signing of this Specific Agreement, the Chief Directorate of IDC will designate a Fund Director within IDC, who will be responsible for:

- the South African approval of the proposals submitted in the framework of this Specific Agreement;
- verifying the proper application of the selection and awarding procedures as

- stipulated in **Article 7**;
- the co-approval of expenditures chargeable to the Fund (sign all payment orders of the Fund);
- ensuring the organisation and coordination of the activities in the context of the Fund and the different South African authorities concerned.

The Department or Government Agency benefitting of an initiative financed by the program is designated as the executive Department/Government Agency responsible for the technical monitoring of the initiative.

For each initiative to be financed by the Fund the executive Department/Government Agency shall appoint a project manager or supervising officer, responsible for monitoring the procedure for awarding and the certification of service rendered.

- 3.3. Belgium designates the Directorate General for Development Cooperation within the Ministry of Foreign Affairs, Foreign Trade and Development Co-operation hereinafter referred to as "the DGDC", as the administrative entity responsible for its contribution to the Fund. The DGDC is represented in the Republic of South Africa by the Attaché for International Co-operation at the Embassy of Belgium in Pretoria.

The DGDC designates the Belgian Technical Cooperation, a Belgian public law company with social purpose, hereinafter referred to as "BTC", as responsible entity for the management of the entire Belgian contribution to the Fund. BTC assumes responsibility for the monitoring, the administrative and financial control of the studies and expertise. BTC is represented in South Africa by its Resident Representative in Pretoria.

BTC designates its Resident Representative of BTC as the Fund Co-Director, responsible for:

- the Belgian approval of the proposals submitted in the framework of this Specific Agreement;
- verifying the selection and awarding procedures as stipulated in **Article 7**;
- the follow-up of the selection and awarding process;
- the co-approval and authorisation of expenditures chargeable to the Fund;
- the technical monitoring of each study or expertise;
- and the daily management of the Fund.

The Resident Representative may be assisted in his or her responsibilities by a technical expert who is specifically responsible for giving technical advice on the terms of reference and all documents or reports produced as part of an initiative financed by the Fund. This expertise will be financed from the budget of the initiative.

#### **ARTICLE 4 MONITORING AND EVALUATION**

- 4.1. A Joint Local Consultative Body, hereinafter referred to as the "JLCB", composed of the Fund Director (Chair), and the Fund co-Director, will meet ordinarily every six months at the invitation of its Chairperson; extraordinary meetings can be organised on request of one of its members.

- 4.2. The JLCB will establish by consensus its internal regulations at the first meeting. The JLCB will have the following tasks:
- to monitor the use of the Fund;
  - to draft the procedures manual for the use and the management of the Fund;
  - to assess the relevance of the results of the operations financed by the Fund;
  - to propose possible adaptations of the procedures to both Parties;
  - to propose the replenishment of the Belgian contribution;
  - and to approve the final report of the Fund and supervise the closure of the Fund.
- 4.4. The JLCB may order evaluations to assess the relevancy and the quality of the results of the operations as well as the Fund's results and impact as stipulated in Article 1. Where appropriate, such evaluation will be financed by the Fund and implemented according to the same rules and procedures as defined for other operations financed by the Fund.
- 4.5. The JLCB shall hold a meeting in the first three months after the signature of this Specific Agreement to examine the guidelines for the use and the management of the Fund. Those guidelines shall be prepared by the Fund Director and the Fund Co-Director who can use the budget of the Fund for drawing up the manual. Under no circumstances will this manual modify the clauses of this Specific Agreement.  
After positive advice given by the JLCB, the guidelines shall be submitted for approval to the Partner Committee.
- 4.6. The JLCB shall hold a meeting at the latest three months before the end of the validity of this Specific Agreement to examine the draft final report and the modalities for closing or replenishing the Fund.

## **ARTICLE 5 REQUESTS FOR FUNDING**

- 5.1. Proposals must be submitted by a Department/Government Agency through the Fund Director with a copy to the Fund Co-Director and contain at least the following information:
- identification of the requesting institution (name, address, telephone, fax, mail etc);
  - objectives of operation to be funded;
  - the Department/Government Agency acting as the implementing entity;
  - the terms of reference of the study or consultancy conform with the format approved by both Parties;
  - the agenda of the seminar or the workshop, conform the concept accepted by the Parties
  - the profile of the required consultant(s);
  - a cost estimate;
  - the implementation schedule;
  - and the results to be achieved by the operation.

**ARTICLE 6**  
**PROCEDURE FOR APPROVING OPERATIONS TO FUND**

- 6.1. Within 30 days of receipt of the request, the Fund Director and the Fund Co-Director shall decide by agreement on the desirability and admissibility of the application for funding. They shall ensure the availability of financial resources required to fund the requested operation.
- 6.2. The Fund Director then submits the request to the Attaché for International Cooperation who must provide a notice of no objection within 10 working days after receipt. If no notice is provided the proposal is accepted.
- 6.3. The Fund Director will notify the decision to the requesting South African Ministry/Government Agency in writing. They will also inform the Attaché for International Cooperation.

**ARTICLE 7**  
**PROCEDURE AND CRITERIA FOR SELECTION OF CONSULTANTS  
AND AWARDING OF CONTRACTS**

Any aspect of the tenders and contracts not specifically stipulated in this Specific Agreement shall be managed in accordance with the South African tender regulations.

**ARTICLE 8**  
**MANAGEMENT OF THE ACCOUNT**

- 8.1. The Belgian non-reimbursable contribution to the Fund will be co-managed by the Fund Director and the Fund Co-Director through a new specific account opened in the name of the "Belgian-South African Study and Consultancy Fund".
- 8.2. The account shall be operated by both the Fund Director and the Fund Co-Director, under the double signature of the Fund Director and the Fund Co-Director or their respective delegates.
- 8.3. The account shall be replenished by BTC upon request from the Fund Director and the Fund Co-Director in function of the progress of the utilization of the funds.
- 8.4. Any interest earned by the Fund account will be capitalized on the same account and used for the same purposes.

**ARTICLE 9**  
**INFORMATION**

- 9.1. The project manager or supervising officer will provide a copy of all reports elaborated in the framework of an initiative to the Fund Director, the Fund Co-Director and the Attaché for International Cooperation.

- 9.2. An annual Study and Consultancy Fund report will be prepared by the Fund Director and the Fund Co-Director, and submitted to all members of the Fund JLCB.

Annually, the Partner Committee will consider the strategic utilization of the Fund and the achieved results, based on this annual report.

#### **ARTICLE 10 OWNERSHIP OF THE STUDIES**

The results of the operations, which are financed under this Specific Agreement, are the property of the South African authorities. However, Belgium is entitled to make use of these results for development co-operation activities.

Neither the South-African authorities nor the beneficiary may sell or give the results of the studies without the foregoing written consent of Belgium.

#### **ARTICLE 11 TAXES, CHARGES AND IMPORTS DUTIES**

The Belgian contribution will in no circumstances be used to pay any tax, duty, entry tax and other public charges (including VAT) set up by the South African Authorities on supplies and equipment, works and services.

#### **ARTICLE 12 DURATION, PROLONGATION, DENUNCIATION AND MODIFICATION**

- 12.1. This Specific Agreement enters into force on the day of its signing and it is valid for a period of five years.
- 12.2. At the expiration of this Specific Agreement, the unspent funds already transferred to the joint account shall be used for similar purposes decided upon by agreement between the Parties.
- 12.3. This Specific Agreement may be terminated by either Party, by note verbal, giving notice of 90 days. The balance available and not committed as part of previously signed contracts will be immediately transferred to the Belgian party.
- 12.4. The provisions of this Specific Agreement may be amended by mutual consent of the Parties by Exchange of Letters between Parties.

#### **ARTICLE 13 SETTLEMENT OF DISPUTES**

Any dispute concerning the application, implementation or interpretation of the provisions of this Specific Agreement shall be settled amicably through consultation or negotiations.

**ARTICLE 14  
NOTIFICATIONS AND AMENDMENTS**

All notifications related to this Specific Agreement and more specifically modifications and interpretations of this Specific Agreement shall be communicated through diplomatic channel at the following addresses:

For Belgium, to the Embassy having South Africa within its jurisdiction:  
The Attaché for International Cooperation  
The Directorate General for Development Cooperation  
c/o Embassy of Belgium  
625 Leyds Street  
Muckleneuk, Pretoria 0002

For South Africa:

The Chief Directorate International Development Cooperation  
National Treasury  
Private bag X115  
Pretoria 0001

All notifications related to the technical execution of this Specific Agreement as mentioned in Article 3, can be addressed at the following institutions:

For Belgium, to:

The Resident Representative  
Belgian Technical Cooperation  
490 Fehrsen Street  
Brooklyn, Pretoria 0001

For South Africa, to:

The Chief Directorate International Development Cooperation  
National Treasury  
Private bag X115  
Pretoria 0001

**IN WITNESS WHEREOF** the undersigned, being duly authorised thereto, having signed and sealed this Specific Agreement in duplicate in the English language, both texts being equally authentic., each party hereby acknowledge receipt of its copy.

**DONE** at Pretoria on this 16<sup>th</sup> day of April, 2010.

*Jan F. Nutton*

For the Government of the Kingdom of  
Belgium

*JAN F. NUTTON*  
AMBASSADOR

*[Signature]*

For the Government of the Republic of  
South Africa

*[Signature]*  
Minister of Finance

