

**No. 45058\***

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**South Africa  
and  
Namibia**

**Agreement between the Government of the Republic of Namibia and the Government of the Republic of South Africa on the transfer of status records of persons born, married or died in Namibia held by the Government of the Republic of South Africa. Windhoek, 30 October 2007**

**Entry into force:** *30 October 2007 by signature, in accordance with article 14*

**Authentic texts:** *English*

**Registration with the Secretariat of the United Nations:** *South Africa, 18 June 2008*

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**Afrique du Sud  
et  
Namibie**

**Accord entre le Gouvernement de la République de Namibie et le Gouvernement de la République sud-africaine relatif au transfert d'actes de l'état de personnes nées, mariées ou mortes en Namibie tenus par le Gouvernement de la République d'Afrique du Sud. Windhoek, 30 octobre 2007**

**Entrée en vigueur :** *30 octobre 2007 par signature, conformément à l'article 14*

**Textes authentiques :** *anglais*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Afrique du Sud, 18 juin 2008*

\* *The text reproduced below is the original text of the agreement as submitted. For ease of reference, it was sequentially paginated. The final UNTS version of it is not yet available.*  
*Le texte reproduit ci-dessous est le texte authentique de l'accord tel que soumis pour enregistrement. Pour référence, il a été présenté sous forme de la pagination consécutive.*  
*La version finale RTNU n'est pas encore disponible.*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

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The Government of the Republic of Namibia and the Government of the Republic of South Africa (hereinafter jointly referred to as the “Parties” and separately as a “Party”);

**RECALLING** the Agreement between the Governments of the People’s Republic of Angola, the Republic of Cuba and the Republic of South Africa signed on 22 December 1988 in terms of which the Parties agreed that the Government of the Republic of South Africa will comply with United Nations Security Council Resolution 435 (1978) to withdraw South Africa’s administration from Namibia and transfer power to the People of Namibia;

**RECALLING FURTHER** the 1994 Walvis Bay Treaty entered into between the Parties, which provides, in Article 4 thereof, for the regulation by way of further Agreements, of any matter arising from the incorporation of Walvis Bay into the Republic of Namibia;

**RECOGNISING** that the administration of South West Africa/Namibia fell under the Republic of South Africa in accordance with the mandate given to South Africa by the League of Nations on 17 December 1920 in terms of the 1919 Treaty of Versailles and the South West Africa Mandate Act, 1919 (Act No. 49 of 1919);

**RECOGNISING FURTHER** that section 22 of the now repealed South African Citizenship Act, 1949 (Act No. 44 of 1949) provided that all persons born in South West Africa/Namibia from the period of 1923 were regarded as South African citizens by birth;

**RECALLING** that the administration of South West Africa/Namibia was restored to the Republic of Namibia when Namibia attained her independence from South Africa in 1990, and as a consequence thereof, as well as in terms of the South African Citizenship at Attainment of Independence by Namibia Regulation Act, 1990 (Act No. 74 of 1990), the citizenship and other related matters pertaining to Namibian nationals reverted to the Government of the Republic of Namibia;

A handwritten signature in black ink, appearing to be 'RAN' with a stylized flourish above it.

**GUIDED** by the discussions between the Parties regarding the need to transfer status records of persons who were born, married or died in South West Africa/Namibia that are held by the Government of the Republic of South Africa to the Government of the Republic of Namibia; and

**INSPIRED** by the aspiration of the Government of the Republic of Namibia to harmonise their population register and regulate other related matters by the inclusion therein, of the records that the Parties intend to transfer in terms of this Agreement;

**HEREBY AGREE** as follows:

**ARTICLE 1**  
**DEFINITIONS**

In this Agreement, unless the context otherwise indicates—

**“receiving State”**, in relation to the transferring of records, means the Republic of Namibia;

**“records”** means birth, marriage and death records of persons born, married or who died in South West Africa/Namibia, that are held by the Government of the Republic of South Africa;

**“third party”** means any party other than the Parties to this Agreement;

**“transfer”**, in relation to the records, means the moving of records from the transferring State to the receiving State;

**“transferring State”**, in relation to the transferring of records, means the Republic of South Africa; and

**“Walvis Bay Treaty”** means the Treaty between the Government of the Republic of South Africa and the Government of the Republic of Namibia with respect to Walvis Bay and the off-shore islands signed on 24 of February 1994.

*RAN*

**ARTICLE 2**  
**COMPETENT AUTHORITY**

The Competent Authorities responsible for the implementation of this Agreement shall be—

- (a) in the case of the Republic of Namibia, the Ministry of Home Affairs and Immigration; and
- (b) in the case of the Republic of South Africa, the Department of Home Affairs.

**ARTICLE 3**  
**RECORDS**

- (1) The transferring State shall transfer to the receiving State the following records:
  - (a) The status records of persons born, married or who died in South West Africa/Namibia, held by the Government of the Republic of South Africa that were transferred to or recorded by the Government of the Republic of South Africa, since the handing over of the administration of Namibia to South Africa in 1920 in accordance with the mandate given to South Africa by the League of Nations on 17 December 1920 in terms of the 1919 Treaty of Versailles and the South West Africa Mandate Act, 1919 (Act No. 49 of 1919); and
  - (b) the status records of persons born, married or who died in South West Africa/Namibia resident in Walvis Bay since the attainment of independence by Namibia in 1990 until the incorporation of Walvis Bay into Namibia, in terms of the 1994 Walvis Bay Treaty.
- (2) The transferring State shall transfer to the receiving State the original hard and electronic formats of the records in terms of this Agreement.
- (3) For the purposes of archiving the history in relation to the records in terms of this Agreement, the transferring State may make and keep copies and electronic formats of the said records.

