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**Namibia, Angola
and
South Africa**

The Benguela Current Convention between the Government of the Republic of Angola and the Government of the Republic of Namibia and the Government of the Republic of South Africa. Benguela, 18 March 2013

Entry into force: *10 December 2015, in accordance with article 23*

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**Namibie, Angola
et
Afrique du Sud**

La Convention du courant de Benguela entre le Gouvernement de la République d'Angola et le Gouvernement de la République de Namibie et le Gouvernement de la République d'Afrique du Sud. Benguela, 18 mars 2013

Entrée en vigueur : *10 décembre 2015, conformément à l'article 23*

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[ENGLISH TEXT – TEXTE ANGLAIS]

THE BENGUELA CURRENT CONVENTION

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF ANGOLA

AND

THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA

AND

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

PREAMBLE

The Government of the Republic of Angola, the Government of the Republic of Namibia and the Government of the Republic of South Africa (hereinafter referred to in the singular as “a Party” and in the plural as “Parties”);

Recognising the unique character of the Benguela Current Large Marine Ecosystem, the richness and complexity of its biological and physical functioning, its significance for the socio-economic development and for the well-being of the people depending on it and the threats to it;

Recalling the Interim Agreement between the Government of the Republic of Angola and the Government of the Republic of Namibia and the Government of the Republic of South Africa on the Establishment of the Benguela Current Commission signed by January 2007;

Further recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, the relevant provisions of the United Nations Convention on Biological Diversity of 5 June 1992, the relevant provisions of the United Nations Framework Convention on Climate Change of 21 March 1994, including implementation agreements under these conventions, as well as other global and regional instruments concerning conservation and management of marine resources, abatement of pollution, safety at sea, and protection of the environment;

Conscious of the need to avoid adverse impacts on the marine environment, protect biodiversity, maintain the integrity of the marine ecosystem and minimise the risk of long-term or irreversible effects by human activities;

Convinced of the need to take concrete actions collectively to ensure effective long-term transboundary co-operation and the integrated sustainable management and the protection of the marine resources;

Recognising the importance of stable institutional arrangements to ensure the implementation of an ecosystem approach to the management of resources and of human activities affecting the Benguela Current Large Marine Ecosystem;

Seeking to address the challenges identified by them in the Benguela Current Large Marine Ecosystem;

Convinced of their joint responsibility as custodians of this globally significant large marine ecosystem to conserve and manage it for the benefit of present and future generations;

HAVE AGREED as follows:

Article 1
Definitions

In this Convention, unless the context indicates otherwise-

“Adverse Impact”

- (a) includes any actual or potential detrimental effect on the Benguela Current Large Marine Ecosystem that results directly or indirectly from human conduct originating wholly or partly within the area under jurisdiction of a Party or from a ship or aircraft under its jurisdiction or control; and
- (b) includes adverse impact that extends beyond the jurisdiction of a Party in which the physical origin of the adverse impact is situated; and
- (c) includes any actual or potential detrimental effect on legitimate uses of the Benguela Current Large Marine Ecosystem, on the health of the people of the Parties or on their ability to provide for their health, safety, cultural and economic well-being, which occurs or may occur as a consequence of a detrimental effect referred to in (a); but
- (d) does not include any actual or potential detrimental effect that is negligible or which has been assessed and to be determined acceptable under this Convention;

“Benguela Current Large Marine Ecosystem” means the large marine ecosystem associated with the Benguela Current and characterised by distinct bathymetry, hydrography, productivity and trophically dependent populations, within the area of application set out in this Convention;

“Ecosystem” means a dynamic system of plant, animal and micro-organisms communities and their non-living environment interacting as a functional unit;

“Environment” includes, but is not limited to, the whole or any component of -

- (a) nature, which includes air, water (including the sea, and the sea bed), land (including soils and minerals), energy and living organisms other than humans;
- (b) the interaction between the components of nature and between those components and humans; and
- (c) physical, aesthetic and cultural qualities or conditions that affect the health and well-being of humans;

“Fishery Resources” means resources of fish, molluscs, crustaceans, and other sedentary species;

“Interim Agreement” means the Agreement between the Republic of Angola, the Republic of Namibia and the Republic of South Africa on the Establishment of the Benguela Current Commission signed by January 2007;

“Marine Resources” means all living and non-living components of the marine ecosystem;

“Party” means either the Republic of Angola, the Republic of Namibia or the Republic of South Africa, and the **“Parties”** means the Republic of Angola, the Republic of Namibia and the Republic of South Africa jointly;

“Pollution” means the introduction by humans, directly or indirectly, of substances or energy into the Benguela Current Large Marine Ecosystem, which results in, or is likely to result in hazards to human health, harm to the ecosystem, damage to amenities or interference with legitimate uses of the Benguela Current Large Marine Ecosystem;

“Precautionary Principle” means the principle that a lack of full scientific certainty shall not be used as a reason for postponing measures or actions to give effect to the objective of this Convention;

“Ship or Aircraft” means any waterborne or airborne man-made structure fixed or floating, their parts, fittings and equipment, whether self-propelled or not, operating in the marine environment; and

“Strategic Action Programme” means the Strategic Action Programme for the Benguela Current Large Marine Ecosystem adopted and signed by the Parties.

Article 2

Objective

The objective of this Convention is to promote a coordinated regional approach to the long-term conservation, protection, rehabilitation, enhancement and sustainable use of the Benguela Current Large Marine Ecosystem, to provide economic, environmental and social benefits.

Article 3

Area of Application

(1) The area of application for this Convention comprises all areas within the national sovereignty and jurisdiction in accordance with the United Nations Convention on the Law of the Sea of 10 December 1982, bounded by the high water mark along the coasts of the Parties.

(2) This Convention applies to all human activities, aircrafts and ships under jurisdiction or control of a Party to the extent that these activities or the operation of such aircraft or ship result in, or are likely to result in adverse impacts.

Article 4

General Principles

- (1) The Parties shall be guided by the following principles:
 - (a) The cooperation, collaboration and sovereign equality principle;
 - (b) sustainable use and management of the marine resources;
 - (c) the precautionary principle;
 - (d) prevention, avoidance and mitigation of pollution;
 - (e) the polluter pays principle; and
 - (f) protection of biodiversity in the marine environment and conservation of the marine ecosystem.
- (2) In giving effect to the objective of this Convention and to the principles in paragraph (1), the Parties shall -
 - (a) take all possible steps to prevent, abate and minimise pollution and take the necessary measures to protect the marine ecosystem against any adverse impacts;
 - (b) undertake environmental impact assessment for proposed activities that are likely to cause adverse impacts on the marine and coastal environments;
 - (c) apply management measures based on the best scientific evidence available;
 - (d) establish mechanisms for intersectoral data collection, sharing and exchange thereof;
 - (e) where possible, reverse and prevent habitat alteration and destruction;
 - (f) protect vulnerable species and biological diversity; and
 - (g) take all possible steps to strengthen and maintain human and infrastructural capacity.