

**AGREEMENT CONCERNING THE DEVELOPMENT
OF TRADE AND INVESTMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA
AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA**

PREAMBLE

The Government of the Republic of South Africa and the Government of the United States of America (hereinafter referred to individually as a "Party" and jointly as the "Parties"):

1. **Inspired** by the strong desire to strengthen the ties of friendship and cooperation existing between the Parties;
2. **Committed** to achieving economic development and meaningful integration of developing countries into the global economy;
3. **Recognizing** the benefits to each Party resulting from increased trade and investment;
4. **Determined** to work towards greater well-being for their peoples, through increased trade and investment;
5. **Convinced** of the importance of reinforcing the flow of trade in goods and services;
6. **Recognizing** the important role of agriculture and agricultural trade between our two countries;
7. **Desiring** to ensure that trade and environmental policies are mutually supportive in furtherance of economic growth and sustainable development;
8. **Recognizing** that foreign direct investment confers benefits on each Party;
9. **Recognizing** the value of fostering a favorable environment for trade and investment between the Parties, including through the elimination of impediments to trade and the provision of adequate and effective protection of intellectual property rights;
10. **Reaffirming** their commitment to respect and promote the fundamental rights of workers in both countries, based on the core conventions of the International Labor Organization;

11. **Noting** the membership of both countries in the World Trade Organization and accepting that this Agreement is without prejudice to each Party's rights and obligations under the agreements, understandings, and other instruments related to or concluded under the auspices of the WTO;
12. **Recognizing** the positive and constructive role of the Trade and Investment Committee (TIC) of the Bi -National Commission (BNC), co-chaired by the US Secretary of Commerce and the South African Minister of Trade and Industry, in enhancing economic ties between the two countries;
13. **Taking** into account the need to eliminate non-tariff barriers in order to facilitate greater access to the markets of both countries;
14. **Reaffirming** their desire to resolve trade and investment problems and disputes through consultation and dialogue;

HEREBY AGREE as follows:

Article One

OBJECTIVES

The Parties will seek to:

- (1) expand trade in goods and services between them, within the framework and terms of this agreement.
- (2) take appropriate measures to encourage and facilitate the exchange of goods and services, and to secure favorable conditions for long-term development and diversification of trade between the two countries.
- (3) encourage private sector investment between the two countries, as a means of furthering growth, job creation, and economic development, and, to this end, will promote an open and predictable environment for investment and facilitate expanded contacts between their respective private sectors.

Article Two

COUNCIL ON TRADE AND INVESTMENT

- (1) The Parties will establish a Council on Trade and Investment (The Council) which will be composed of representatives of both Parties. South Africa's side will be chaired by a representative appointed by the Department of Trade and Industry (DTI). The United States of America's side will be chaired by the Office of the United States Trade Representative (USTR). Each Chair may work with officials from other Government entities as circumstances require.
- (2) The function of the Council will be to ensure the fulfilment of the objectives of this Agreement, as set out in Article One, and to provide a forum for consultation and dialogue on specific trade and investment matters of interest to the Parties, as well as for identifying and working towards the removal of impediments to trade and investment flows. In this connection, the Council will build on the work of and, when both Parties consider it appropriate, consult or cooperate with the TIC of the BNC.
- (3) The Council will meet at such times as will be agreed by the Parties.

Article Three

CONSULTATION AND COOPERATION

- (1) Either Party may, whenever it considers it appropriate, consult the civil society in its country, such as business, labor, consumer, environmental and academic groups, on matters related to the work of the Council. Either Party may, when it considers it appropriate, present the views of its civil society at meetings of the Council.
- (2) For the purposes of providing for the further expansion of bilateral trade and investment flows, the Parties will consider whether further agreements relating to taxation, intellectual property, and trade and investment issues would be desirable.
- (3) Either Party may, at any time, raise for consultation any trade or investment matter between the Parties. Requests for consultation will be accompanied by a written explanation of the subject to be discussed, and the consultations will be held within a reasonable time, the venue for which will be agreed between the Parties.

Article Four

FINAL CLAUSES

- (1) This Agreement is without prejudice to the rights and obligations of either Party under its domestic law or under any other agreements, conventions or other instruments to which either country is a party.
- (2) This Agreement may be amended through an exchange of notes between the Parties through diplomatic channels.
- (3) The Agreement will enter into force on the date of its signature by both Parties and will remain in force unless terminated by mutual consent of the Parties, or by either Party upon six months' written notice to the other Party.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE in duplicate at Cape Town, on 18 February 1999, in the English language.

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

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**FOR THE GOVERNMENT
THE UNITED STATES
OF AMERICA**