

Public Disclosure Authorized

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GEF TRUST FUND GRANT NUMBER TF056039

Project Agreement

(Southwest Indian Ocean Fisheries Project)

between

**INTERNATIONAL BANK FOR RECONSTRUCTION AND
DEVELOPMENT
acting as an Implementing Agency of the Global Environment Facility**

and

REPUBLIC OF SOUTH AFRICA

Dated April 9, 2008

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GEF TRUST FUND GRANT NUMBER TF056039

PROJECT AGREEMENT

AGREEMENT dated April 9, 2008 between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank), acting as an Implementing Agency of the Global Environmental Facility (GEF), and REPUBLIC OF SOUTH AFRICA (South Africa);

WHEREAS by the GEF Trust Fund Grant Agreement of even date herewith between the Republic of Kenya (the Recipient) and the Bank, the Bank has agreed to make available to the Recipient from the resources of the GEF Trust Fund an amount in various currencies equivalent to twelve million United States Dollars (\$12,000,000), on the terms and conditions set forth in the GEF Trust Fund Grant Agreement, but only on condition that South Africa agree to undertake such obligations toward the Bank as are set forth in this Agreement; and

WHEREAS South Africa, in consideration of the Bank's entering into the GEF Trust Fund Grant Agreement with the Recipient, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the Parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the GEF Trust Fund Grant Agreement, the Preamble to this Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth, and the following additional term has the following meaning:

(a) "Marine and Coastal Management" or "MCM" means the directorate operating under South Africa's Department of Environmental Affairs and Tourism to ensure sustainable utilization and conservation of marine and coastal resources in South Africa's territory;

(b) "RMU" means the Regional Management Unit based in the Republic of Kenya; and

- (c) "FMR" means Financial Management Report as described in Section 4.2.

ARTICLE II

Execution of the Project

Section 2.01. (a) South Africa declares its commitment to the objectives of the Project as set forth in Schedule 2 to the GEF Trust Fund Grant Agreement (and reprinted as Schedule 2 to this Agreement), and, to this end, shall, through MCM, carry out Part B of the Project and assist in the implementation of Parts A, D, E, and F of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, conservation and biodiversity practices, and with due regard to ecological and environmental factors, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Part B of the Project and assistance in the implementation of Parts A, D, E, and F of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Bank and South Africa shall otherwise agree in consultation with the Regional Policy Steering Committee (RPSC), South Africa shall carry out Part B of the Project and assist in the implementation of Parts A, D, E, and F of the Project in accordance with the Implementation Program set forth in Schedule 1 to this Agreement.

Section 2.02. Except as the Bank shall otherwise agree, procurement of the goods, works and services required for the Project and to be financed out of the proceeds of the GEF Trust Fund Grant shall be governed by the provisions of Schedule 3 to the GEF Trust Fund Grant Agreement, as said provisions may be further elaborated in the Procurement Plan.

Section 2.03. (a) South Africa shall carry out the obligations set forth in Sections 9.05, 9.06, 9.07, 9.08 and 9.09 of the General Conditions (relating to use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of this Project Agreement.

(b) For the purposes of Section 9.08 of the General Conditions and without limitation thereto, South Africa shall:

- (i) prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Bank and South Africa, a plan for the future sustainability of the Project; and

- (ii) afford the Bank a reasonable opportunity to exchange views with South Africa on said plan.

Section 2.04. South Africa shall duly perform all its obligations under the Project Agreement. Except as the Bank shall otherwise agree, South Africa shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the Project Agreement or any provision thereof.

Section 2.05. (a) South Africa shall, at the request of the Bank, exchange views with the Bank with regard to progress of the Project, the performance of its obligations under this Agreement and other matters relating to the purposes of the GEF Trust Fund Grant.

(b) South Africa shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of GEF Trust Fund Grant, or the performance by South Africa of its obligations under this Agreement.

ARTICLE III

Management and Operations

Section 3.01. South Africa shall cause MCM to carry on its operations and conduct its affairs in accordance with sound administrative, financial, biodiversity, ecological and environmental practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. South Africa shall cause MCM to take all reasonable steps within its means to operate and maintain its assets and investments, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, and financial practices.

Section 3.03. South Africa shall cause MCM to take out and maintain with responsible insurers, or make other provision satisfactory to the Bank for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

ARTICLE IV

Financial Covenants

Section 4.01. (a) South Africa shall cause MCM to establish and maintain a financial management system, including records and accounts, and prepare financial statements, in accordance with consistently applied accounting standards acceptable to the Bank, adequate to reflect its operations and financial condition and to register separately the operations, resources and expenditures related to Part B of the Project (described in Schedule 2 of this Agreement) and assistance in the implementation of Parts A, D, E, and F of the Project.

- (b) South Africa shall cause MCM to:
 - (i) have its financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year (or other period agreed to by the Bank) audited, in accordance with consistently applied auditing standards acceptable to the Bank, by independent auditors acceptable to the Bank;
 - (ii) furnish to the RMU and the Bank as soon as available, but in any case not later than six months after the end of each such year (or such other period agreed to by the Bank), (A) certified copies of the financial statements referred to in paragraph (a) of this Section, for such year (or such other period agreed to by the Bank), as so audited, and (B) an opinion on such statements by said auditors, in scope and detail satisfactory to the Bank; and
 - (iii) furnish to the RMU and the Bank such other information concerning such records and accounts and the audit of such financial statements, and concerning said auditors, as the Bank may from time to time reasonably request.

Section 4.02. (a) Without limitation upon South Africa's reporting obligations set out in Schedule 1 to this Agreement, South Africa shall cause MCM to prepare and furnish to the RMU and the Bank a financial monitoring report, in form and substance satisfactory to the Bank, which:

- (i) sets forth sources and uses of the relevant funds allocated to South Africa under the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Grant, and explains variances between the actual and planned uses of such funds;

- (ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and
- (iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the RMU not later than 30 days after the end of the first calendar quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar quarter. Thereafter, each FMR shall be furnished to the Bank not later than 30 days after each subsequent calendar quarter, and shall cover the period not covered by the previous FMR until the end of such calendar quarter.

ARTICLE V

Effective Date; Termination; Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the GEF Trust Fund Grant Agreement becomes effective.

Section 5.02. This Agreement and all obligations of the Bank and of South Africa thereunder shall terminate on the date on which the GEF Trust Fund Grant Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify South Africa thereof.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any suspension or cancellation under the General Conditions.

ARTICLE VI

Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telex or facsimile to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. Deliveries made by facsimile transmission shall also be confirmed by mail. The addresses so specified are:

For the Bank:

International Bank for
Reconstruction and Development
1818 H Street, NW
Washington, DC 20433
United States of America

Cable address:	Telex:	Facsimile:
INTBAFRAD Washington, D.C.	248423 (MCI) or 64145 (MCI)	(202) 477-6391

For South Africa:

Department of Environmental Affairs and Tourism
Private Bag X447
Pretoria, 0001
South Africa

Cable address:	Facsimile:
(2712) 4657690	(2712) 4653216

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of South Africa may be taken or executed by the Minister responsible for Environmental Affairs and Tourism or such other person or persons as the Minister responsible for Environmental Affairs and Tourism shall designate in writing, and South Africa shall furnish to the Bank sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Pretoria, South Africa, as of the day and year first above written.

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Dirk Reinermann
Authorized Representative

REPUBLIC OF SOUTH AFRICA

By /s/ Marthinus Van Schalkwyk
Authorized Representative

SCHEDULE 1

Implementation Program

1. National Management Unit

(a) In order to facilitate the implementation of the Project, South Africa shall establish and maintain within MCM a National Management Unit (NMU) throughout the period of implementation of the Project, for the purpose of: (i) the day-to-day administration of Part B of the Project in accordance with the annual work plan, including procurement, financial management, monitoring and reporting on activities; (ii) preparing regular assessment of data and samples derived from the activities undertaken under the Project and annual progress reports for review by the Regional Management Unit (RMU); and (iii) ensuring effective coordination with the other entities involved in the implementation of the Project.

(b) Without limitation to subparagraph (a) of this Section, South Africa shall maintain the National Management Unit throughout the period of implementation of the Project, in form and with staffing, functions and resources satisfactory to the Bank including: a National Coordinator, a national procurement and financial manager, and National Component Coordinators, and Sub-component coordinators.

2. Project Implementation Manual

(a) South Africa shall adopt the Project Implementation Manual (PIM), in form and substance satisfactory to the Bank, including the Monitoring and Evaluation Manual (M&E Manual) and containing detailed arrangements and procedures for: (i) institutional coordination and day-to-day implementation of the Project; (ii) disbursement and financial management; (iii) procurement; and (iv) reporting; and such other administrative, financial, technical and organizational arrangements and procedures as shall be required for the Project.

(b) South Africa shall carry out Part B of the Project and assist in the implementation of Parts A, D, E, and F of the Project in accordance with the arrangements and procedures set out in the PIM, provided, however, that in case of any conflict between the arrangements and procedures of said manuals and the provisions of this Agreement, the provisions of this Agreement shall prevail, and, except as the Bank shall otherwise agree, shall not amend, abrogate or waive any provision of said manuals, if such amendment, abrogation or waiver may, in the opinion of the Bank, materially or adversely affect the implementation of the Project.

3. Annual Work Plans

South Africa shall cause MCM to submit to the RMU: (i) annual work plans for the component they are coordinating, and (ii) regional progress reports based on the performance indicators set forth in Schedule 5 to the GEF Trust Fund Grant Agreement and in more detail in the PIM.

4. Monitoring and Reporting

South Africa shall cause MCM to:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the indicators set forth in Schedule 5 to the GEF Trust Fund Grant Agreement, and in more detail in the PIM, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare, or cause to be prepared, under terms of reference satisfactory to the Bank, and furnish to the RMU and the Bank, an annual report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph 4 (a) of this Schedule, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date; and

(c) review with the RMU and the Bank, the report referred to in paragraph 4 (b) of this Section, and thereafter act promptly and diligently in order to take, or cause to be taken, any corrective action deemed necessary to remedy any shortcoming identified in the implementation of the Project, or to implement such measures as may have been agreed between the Recipient and the Bank in furtherance of the objectives of the Project.

5. Midterm Review

(a) South Africa shall, jointly with the Bank and the Participating Countries carry out, not later than December 31, 2008, a comprehensive midterm review aimed at: (i) documenting progress toward achieving the Project objectives; (ii) identifying and resolving obstacles to Project implementation; (iii) adjusting, in agreement with the Bank, targets and corresponding programs to reflect progress achieved in the implementation of the Project as of the date of the review; and (iv) an overall evaluation of the Project against the indicators set forth in the PIM.

(b) Promptly after completing the midterm review, South Africa shall take, or cause to be taken, all measures required to fulfill the recommendations arising out of said review for the efficient completion of its part of the Project and the achievement of the objectives thereof, with due diligence and efficiency and in accordance with appropriate practices, taking into account the Bank's comments thereon.

SCHEDULE 2

Description of the Project

The objectives of the Project are to (i) identify and study exploitable offshore fish stocks within the Project Area, and differentiate between environmental and anthropogenic impacts on shared fisheries; (ii) develop institutional and human capacity through training and career building; (iii) develop a regional fisheries management structure and associated harmonized legislation; and (iv) mainstream biodiversity in national fisheries management policy and through national participation in regional organizations that promote sustainable exploitation of fisheries resources.

The Project consists of the following parts, subject to such modifications thereof as the Recipient and the Bank may agree upon from time to time to achieve such objectives.

Part A: Data Gap Analysis, Data Archiving and Information Technology

Establishment of a regional data management system through: (i) consolidation and evaluation of key national datasets of fish and fisheries, repatriation and consolidation of data from various national and international sources; (ii) compiling of a data atlas and conducting a gap analysis to determine actions to be taken; and (iii) establishment of information technology, data handling and communications at the regional and national levels; all through technical advisory services, training, purchase of equipment, and workshops to consolidate data collection.

Part B: Assessment and Sustainable Utilization of Crustaceans

Assessment of the stock dynamics of shallow and deep water crustaceans and their fisheries, including: (i) distribution, stock discrimination and biological reference points of key resources; (ii) ship-based surveys to assess the potential of new and existing fisheries; and (iii) preparing a by-catch assessment including utilization, reduction and ecosystems impacts; all through provision of technical advisory services, wet leasing of ships time, aerial surveys, trawl gear, logistical expenses associated with ship cruises, remote sensing, trainings, workshops, pilot studies, and data analysis.

Part C: Assessment and Sustainable Utilization of Demersal Fish

Assessment of the stock dynamics of demersal species and their fisheries, including: (i) distribution, stock discrimination and biological reference points of key resources; (ii) ship-based surveys to assess the potential of new and existing fisheries; and

(iii) preparing a by-catch assessment including utilization, reduction and ecosystems impacts; all through the provision of technical advisory services, wet leasing of ships time, aerial surveys, trawl gear, logistical expenses associated with ship cruises, remote sensing, trainings, workshops, pilot studies, and data analysis.

Part D: Assessment and Sustainable Utilization of Pelagic Fish

Assessment of the stock dynamics of large, small and meso-pelagic species, and development of strategies to optimize small and large-scale pelagic fisheries, including: (i) ship-based surveys to assess the potential of new and existing pelagic fisheries, (ii) studies on migration of selected large pelagic species, and (iii) study on optimization and development of fish aggregating devices for large and small scale pelagic fisheries; through the provision of technical advisory services, wet leasing of ships time, aerial surveys, ships gear, logistical expenses associated with ship cruises and data collection, remote sensing, trainings, workshops, pilot studies on gear optimization, and data analysis.

Part E: Mainstreaming Biodiversity in National and Regional Fisheries Management

Carrying out of: (i) assessment of the state of knowledge of non-consumptive resources and marine biodiversity for inclusion in the data atlas; (ii) identification of key biodiversity values; (iii) baseline assessments of fisheries interactions with other marine species; (iv) GIS mapping of key marine species; and (v) assessments of marine biodiversity as alternative sources of income.

Part F: Strengthening Regional and National Fisheries Management

Strengthening national and regional fisheries management institutions, through: (i) identification of relevant national and international legislation and other instruments relevant to the Project's objectives; (ii) assistance in the harmonization of legislation between countries; and (iii) development of regional resource management structures and capacity by working closely with the SWIOFC.

* * *

The Project is expected to be completed by May 31, 2011.