

ANNEXURE 2

TREATY

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF
MOZAMBIQUE,

THE GOVERNMENT OF THE REPUBLIC OF
SOUTH AFRICA

AND

THE GOVERNMENT OF THE REPUBLIC OF
ZIMBABWE

ON THE ESTABLISHMENT
OF THE
GREAT LIMPOPO TRANSFRONTIER PARK

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As an affiliation of nations steeped in a common tradition of close association with our sustaining earth, Mozambique, South Africa and Zimbabwe join in recognition of our mutual responsibility to protect and preserve our natural resources for the common good of all.

We embrace this responsibility as Partners and undertake to develop a wildlife sanctuary across political boundaries, where animals may freely roam and flourish in keeping with natural ecological processes.

We do this because as sure as the flower and the bee depend on each other for survival, so too the well-being of humankind is bound to our effective custodianship of the natural heritage entrusted to us.

We furthermore undertake to uphold high ideals and standards in jointly managing this natural treasure, for the spiritual and social upliftment of our people, and for succeeding generations to come.

PREAMBLE

The Government of the Republic of Mozambique, the Government of the Republic of South Africa and the Government of the Republic of Zimbabwe (hereinafter jointly referred to as the "Parties" and in the singular as a "Party");

RECOGNISING the principle of sovereign equality and territorial integrity of their states;

TAKING ACCOUNT of the benefits to be derived from close co-operation and the maintenance of friendly relations with each other;

CONSCIOUS of our responsibility to conserve and sustainably use natural resources for present and future generations;

ACKNOWLEDGING the necessity to conserve the environment for the benefit of all the people of Southern Africa;

RECOGNISING the important role of the private sector and local communities in the promotion and sustainable use of natural resources;

RECALLING that the countries establishing the Great Limpopo Transfrontier Park are signatories of, or parties to, the Convention on Biological Diversity (Rio de Janeiro, 1992); the United Nations Convention to Combat Desertification (Paris, 1994); the Treaty of the Southern African Development Community (SADC) (Windhoek, 1992); the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) (Washington, 1973), as well as other Conventions and Agreements of relevance; and

DESIRING to promote ecosystem integrity, biodiversity conservation and sustainable socio-economic development across international boundaries;

HEREBY AGREE as follows:

ARTICLE 1**Definitions**

In this Treaty:

- (a) "conservation" means the protection, maintenance, rehabilitation, restoration and enhancement of ecological processes, natural resources and the environment;
- (b) "conservation area" means an area designated for conservation;
- (c) "Co-ordinating Party" means that country which on a rotational basis of two years shall be held accountable for routine initiation of meetings and achieving overall co-ordination of activities relating to management of the Great Limpopo Transfrontier Park, as provided for in Article 12;
- (d) "Transfrontier Park" means the Great Limpopo Transfrontier Park as established in terms of Article 2;
- (e) "TFCA" means the larger Transfrontier Conservation Area as provided for in Article 3;
- (f) "JMB" means the Joint Management Board as provided for in Article 11;
- (g) "Joint Management Plan" means the management plan for the Great Limpopo Transfrontier Park provided for in Article 13;
- (h) "local communities" or "communities" means groups of people living in and adjacent to the area of the Great Limpopo Transfrontier Park, bound together by social and economic relations based on shared interest;

- (i) "Management Plan" means the specific plan providing for the management of a constituent area making up the Great Limpopo Transfrontier Park;
- (j) "Ministerial Committee" means the Ministerial Committee as provided for in Article 10;
- (k) "National Implementing Agency" means that national institution as formally designated by each government respectively which shall be responsible for the effective management of the Great Limpopo Transfrontier Park, as provided for in Article 8.

ARTICLE 2

Establishment

The Parties hereby establish the Great Limpopo Transfrontier Park, which for the purpose of conservation, socio-economic development and for public enjoyment shall integrate the areas detailed in Article 3, and reflected in the map contained in the annexure to this Treaty.

ARTICLE 3

Geographic delimitation

- (1) For the purpose of conservation, socio-economic development and public enjoyment, the Transfrontier Park shall integrate the following areas:
 - (a) In Mozambique, the area known as -

Limpopo National Park;
 - (b) in South Africa, the areas known as -
 - (i) Kruger National Park; and

- (ii) the Makuleke Region;
- (c) in Zimbabwe, the areas known as -
- (i) Gonarezhou National Park;
 - (ii) Malipati Safari Area;
 - (iii) Manjinji Pan Sanctuary; and
 - (iv) the community areas which constitute the biodiversity corridor linking Gonarezhou to the Kruger National Park further south.
- (2) The area adjacent to the Transfrontier Park, comprising compatible conservation areas but not lending itself to formal integration with the Transfrontier Park, shall be managed as a Transfrontier Conservation Area.
- (a) In Mozambique these areas include the Banhine and Zinave National Parks, the Massingir and Corumana areas, as well as the interlinking regions;
 - (b) In South Africa and Zimbabwe the areas forming part of the Transfrontier Conservation Area shall include the various privately-owned and state-owned conservation areas directly bordering the Transfrontier Park and which shall be identified in future.

ARTICLE 4

Objectives

The objectives of the Transfrontier Park shall be to –

- (a) foster trans-national collaboration and co-operation among the Parties which will facilitate effective ecosystem management in the area comprising the Transfrontier Park;

- (b) promote alliances in the management of biological natural resources by encouraging social, economic and other partnerships among the Parties, including the private sector, local communities and non-governmental organisations;
- (c) enhance ecosystem integrity and natural ecological processes by harmonising environmental management procedures across international boundaries and striving to remove artificial barriers impeding the natural movement of wildlife;
- (d) facilitate the establishment and maintenance of a sustainable sub-regional economic base through appropriate development frameworks, strategies and work plans;
- (e) develop trans-border eco-tourism as a means of fostering regional socio-economic development; and
- (f) establish mechanisms to facilitate the exchange of technical, scientific and legal information for the joint management of the ecosystem.

ARTICLE 5

Principles

- (1) The sovereign rights of each Party shall be respected, and no Party shall impose decisions on another.
- (2) The process of managing the Transfrontier Park shall be done through joint decision-making by accredited country representatives, in terms of this Treaty.
- (3) The Parties undertake to follow relevant regional and international treaties and protocols in the development and management of the Transfrontier Park.

ARTICLE 6**Co-operation**

- (1) The Parties shall ensure that the Transfrontier Park is managed in accordance with the broad objectives, as outlined in Article 4, and in particular the Joint Management Plan.
- (2) The Parties shall -
 - (a) consult, assist and support each other in the implementation of this Treaty;
 - (b) promote an integrated and co-ordinated management of the Transfrontier Park for its optimal benefit;
 - (c) use their best endeavours to harmonise legislation and policies to facilitate integrated and complementary conservation and socio-economic development activities;
 - (d) ensure that effective measures are implemented and maintained to address issues relating to customs and immigration, security and borderline control, public health, wildlife diseases and other matters which affect relations between the Parties;
 - (e) synchronize related development actions in areas bordering each other ; and
 - (f) enter into further agreements which may be required to give effect to the spirit and intent of this Treaty.

ARTICLE 7**Security and Borderline Control**

- (1) The Parties acknowledge that the Defence, Police, Security and other state agencies responsible for national border integrity are entitled to perform statutory functions of borderline protection and control as may be permitted by domestic law.
- (2) The Parties undertake that where necessary the activities of such state agencies shall be coordinated between the Parties and will be so done with sensitivity for the areas, management objectives and eco-tourism activities in and around the areas of activity.

- (3) The Parties further undertake that where agreement to that effect has been reached, fences shall be erected or retained and that such fences shall be kept in effective condition in accordance with specifications and standards to be agreed upon. Where such fences have been agreed on, the cost of erecting and maintaining such fences shall accrue to the authorities responsible for the particular constituent area in which a particular fence or part thereof exists.
- (4) Where fences have been removed from previous international boundaries, each Party undertakes to respect the sovereign rights of a bordering Party and not to allow its officials to cross into a bordering Party's territory, unless previously agreed on through either arrangement with the JMB or appropriate communication between mandated security or other designated agencies of the Parties.

ARTICLE 8

Implementation

Each Party shall –

- (a) designate a National Implementing Agency responsible for the effective management of the respective constituent areas within its own country;
- (b) delegate such powers and functions to its National Implementing Agency as are required for the effective implementation and co-ordination of all activities relating to the management of the Transfrontier Park.

ARTICLE 9

Institutional Framework

The following bodies shall be responsible for managing the Transfrontier Park:

- (a) The Ministerial Committee;
- (b) the Joint Management Board;
- (c) the Co-ordinating Party
- (d) other bodies may be established if required

ARTICLE 10

The Ministerial Committee

- (1) The Ministerial Committee shall consist of the Ministers mandated by the respective Parties.
- (2) The Ministerial Committee shall –
 - (a) be responsible for the overall policy guidance in the management of the Transfrontier Park;
 - (b) be chaired on a rotational basis;
 - (c) meet at least once a year; and
 - (d) monitor the effectiveness of the implementation of the Joint Management Plan.
- (3) The decisions of the Ministerial Committee shall be taken by consensus.

ARTICLE 11

The Joint Management Board

- (1) The JMB shall consist of the following representatives -
 - (a) Two from each of the National Implementing Agencies of the Parties;
 - (b) one from the national institutions responsible for borderline control of the Parties;
 - (c) one appointed as deemed fit by each of the Parties.

- (2) The JMB shall -
 - (a) be responsible for periodic revision and implementation of the Joint Management Plan for the Transfrontier Park, in accordance with Article 13 (2);
 - (b) determine mechanisms for administering funds received specifically for the Transfrontier Park;
 - (c) be responsible for identifying financial needs and sourcing such funds as are required to achieve the effective implementation of the Joint Management Plan;
 - (d) establish such committees as may be necessary;
 - (e) provide reports to the Ministerial Committee.

- (3) The JMB shall -
 - (a) be chaired and hosted on a rotational basis; and
 - (b) meet on a quarterly basis.

- (4) Decisions of the JMB shall be taken by consensus.

- (5) A quorum at all meetings of the JMB shall consist of six representatives of whom one shall be an appointee of the Mozambican National Implementing Agency, one from the South

African National Implementing Agency, one from the Zimbabwean National Implementing Agency, and one other representative from each of the Parties.

ARTICLE 12

The Co-ordinating Party

- (1) A specific Party shall be designated on a rotational basis as Co-ordinating Party in order to promote accountability and sustain momentum in the management of the Transfrontier Park.
- (2) The Co-ordinating Party shall be appointed for a period of two years.
- (3) A Party may elect to forfeit its designation as Co-ordinating Party, depending on the circumstances, in which event the function shall rotate to the next eligible Party.
- (4) The JMB shall recommend the appointment of the Co-ordinating Party with final designation vesting in the Ministerial Committee.
- (5) The Co-ordinating Party shall -
 - (a) co-ordinate the activities associated with the management of the Transfrontier Park;
 - (b) ensure that an effective JMB is maintained, with full representation by all the Parties and that a working programme focussed on achieving the objectives of the Transfrontier Park is sustained;
 - (c) co-ordinate, with full participation of all relevant stakeholders, the implementation and periodic revision of an effective Joint Management Plan for the Transfrontier Park;
 - (d) apply, in the management of the Transfrontier Park, processes and procedures which are in accordance with the relevant regional and international treaties and protocols;

- (e) prepare reports for the Ministerial Committee and the JMB;
- (f) facilitate the convening of meetings held to give effect to this Treaty;
- (g) liaise with the Parties in identifying sources of funding and joint activities that require funding.

ARTICLE 13

Management Plans

- (1) Each National Implementing Agency shall be responsible for ensuring that the Management Plan for its areas are periodically revised.
- (2) The JMB shall be responsible for ensuring that an overall, Joint Management Plan is maintained, periodically revised, and implemented. This Joint Management Plan shall address tourism flows, revenue matters, and other issues of common interest and mutual impact.

ARTICLE 14

Financing

- (1) Sourcing of funds required to achieve the effective implementation of the Joint Management Plan shall be done either directly or indirectly from the National Implementing Agency of each Party, donor agencies, aid agencies, or other means approved by prior consent of the Ministerial Committee.
- (2) The administration of funds shall be undertaken by the Financial Departments or equivalent structures within each of the National Implementing Agencies of the Parties, or by donor agencies or aid agencies. However, this arrangement is in no way meant to detract from the ability of the JMB to decide and prioritise on financial needs, and decision-making regarding expenditure to ensure the achievement of the objectives of this Treaty.

ARTICLE 15

Settlement of Disputes

- (1) In the event of any dispute arising between the Parties as to the interpretation, application or performance of this Treaty including its existence, validity or termination, such dispute shall be settled amicably through consultation and negotiation between the Parties, through the diplomatic channels or be referred for mediation.
- (2) Should the dispute not be resolved in the manner referred to above, any Party may submit the dispute for final and binding arbitration in accordance with The Hague Permanent Court of Arbitration Optional Rules for Arbitrating Between Two States and as modified by the Parties if required, as in effect on the date of signature of this Treaty.
- (3) The appointing authority shall be the Secretary General of the Permanent Court of Arbitration in The Hague.

ARTICLE 16

Amendments

This Treaty may be amended by mutual consent of the Parties through an exchange of notes between the Parties through the diplomatic channel.

ARTICLE 17

Reservation

The articles of this Treaty shall not be subject to reservation.

ARTICLE 18

Depository

The Secretary General of the United Nations shall be designated as the depository of this Treaty.

ARTICLE 19

Entry into Force

- (1) This Treaty shall enter into force on the date on which each Party has notified the other in writing, through the diplomatic channels, of its compliance with the constitutional requirements necessary for the implementation of this Treaty. The date of entry into force shall be the date of the last notification.
- (2) In the event of any one Party signing this Treaty but not notifying the other Parties of compliance of constitutional requirements within that country, then the Treaty will only enter into force between those countries which have duly signed and notified each other of compliance of constitutional requirements.

ARTICLE 20

Withdrawal or Termination

- (1) Any of the Parties may give 12 months written notice in advance to the other Parties through the diplomatic channels of its intention to withdraw from this Treaty, in which event the Treaty shall remain in force between the remaining two Parties.
- (2) In the event of the Treaty being enforced between two of the Parties it shall remain in force until terminated by any of them giving 12 months written notice in advance to the other Party through the diplomatic channel of its intention to terminate it.

