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Ministry for Women, Children and People with Disabilities
Private Bag X1000, Pretoria, 0001

To : Hon MV Sisulu: The Speaker of the National Parliament

From : Ms Lulu Xingwana: Minister for Women, Children and People with Disabilities

Subject: Explanatory memorandum for the SADC Protocol on Gender and Development

1. Purpose of the memorandum

This is an explanatory memorandum for the SADC Protocol on Gender and Development during this process of seeking ratification of this Protocol by Parliament.

2. Background of the development of the Protocol

The process for the development of SADC Protocol on Gender and Development began in 2005 in order to elevate the SADC Declaration on Gender and Development adopted by Heads of State and Government in 1997 into a legally binding document.

The Protocol contains several articles covering different aspects ranging from access to constitutional and legal rights, governance, education and training, productive resources and employment, gender based violence, health and HIV and AIDS, peace building and conflict resolution and media, information and communications.

The Protocol is a ground-breaking document in the Region which will, if ratified, together with other member states put gender rights at the forefront of the SADC plan of action and provide a clear roadmap for the region's leaders to move towards gender equality by 2015.

This legal instrument has consolidated all key commitments that the SADC Member States have made to address gender inequalities. The Protocol aims to provide for the empowerment of women, to eliminate discrimination and to achieve gender equality and equity through the development and implementation of gender responsive legislation, policies, programmes and

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projects. The Protocol also aims to deepen regional integration, attain sustainable development and strengthen community building.

The Protocol will improve the lives of women in the SADC Region and address persistent inequalities and oppressive behaviours. According to this Protocol, women can be protected legally against inhuman, humiliating or degrading treatment as well as having rights to equitable share in the inheritance of the property of their husbands as many women and children suffered serious loss of property and inheritance due to subjection of cultural inheritance systems and practices in the region.

The Protocol was tabled for adoption with the SADC Heads of States Summit in August 2008, held in Sandton, Johannesburg. During this Summit, 13 of the 15 Member States adopted the Protocol including South Africa. Following this adoption the South African Cabinet adopted the Protocol for ratification by National Parliament in March 2009.

3. Objectives of the Protocol

The objectives of this Protocol are to:

- provide for the empowerment of women, eliminate discrimination and achieve gender equality and equity through the development and implementation of gender responsive legislations, policies, programmes and projects;
- harmonize the implementation of the various instruments to which SADC Member States have subscribed to at the regional, continental and international levels on gender equality and equity which, amongst others, are the Convention on the Elimination of all Forms of Discrimination Against Women(1979); Conventions on the Rights of the Child(1989); the International Conference on Population and development(1994); the Beijing Declaration and its Platform for Action (1995); the SADC Declaration on Gender and Development(1997) and its Addendum (1998); the Millennium Development Goals(2000), the UN Security Council Resolution 1325 on Women, Peace and Security(2000); the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003); or any other legal instrument that may be relevant in this Protocol, in order to accelerate implementation;
- address emerging gender issues and concerns;
- set realistic, measurable targets, time frames and indicators for achieving gender equality and equity;
- strengthen, monitor and evaluate the progress made by Member States towards reaching the targets and goals set out in this Protocol; and
- deepen regional integration, attain sustainable development and strengthen community building.

4. Financial Implication

The Department for Women, Children and People with Disabilities will budget for and/or put up funding mechanisms for the popularization of the Protocol to all beneficiaries as well as monitoring and evaluation to ensure implementation of the Protocol.

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The implementation of the Protocol may also be in a form of mainstreaming into government day to day activities, therefore government departments will be encouraged to set aside budget for the implementation of this Protocol inline with the developed plan of action.

5. Proposed implementation plan

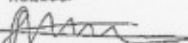
The proposed implementation plan for the popularization of the Protocol includes:

- Development of national action plan and its implementation;
- Imbizos;
- Seminars;
- A high level commitment by executives to the full implementation of the Protocol at all spheres of government, business, labour, private sector and civil society;
- Implementation of specific programmes at grassroots level;
- Partnership with civil society organisations to implement programmes at all levels that will have impact on society in general.

6. Recommendation

The Protocol has been submitted to the Office of the Chief State Law Advisor in Department of Justice and Constitutional Development for scrutiny to ascertain that it is not in possible conflict with the domestic laws of the Republic of South Africa and was found not to be in conflict. Attached is a letter addressed to the Legal Unit in The Presidency in this regard.

It is therefore recommended that the protocol be submitted to Parliament for ratification by the two houses.



Ms Lulu Xingwana, MP
Minister for Women, Children and People with Disabilities

Date 14/04/2011