EXPLANATORY MEMORANDUM

Agreement between the Government of the Republic of South Africa and the Government of the Republic of Cuba on Economic Assistance

History

At its meeting in November 2010, Cabinet approved that the Minister of Trade and Industry identify secure options to extend credit guarantees to Cuba, in consultation with the Export Credit Insurance Corporation (ECIC) and the Minister of Finance, in order to strengthen trade and economic relations between South Africa and Cuba. Subsequently, a package comprising grants and credit lines was agreed upon by the Ministers, which was then announced by the President during the State Visit to Cuba, 6-8 December 2010.

Following the State Visit, an Interdepartmental Technical team convened by the Department of Trade and Industry (**the dti**), and comprising National Treasury, ECIC, the Departments of International Relations and Cooperation (DIRCO) and Agriculture, Forestry and Fisheries (DAFF), as well as the Industrial Development Corporation (IDC) was established. This team undertook extensive consultations and developed the terms of engagement with Cuba. The team led the negotiation of the Package with the Cuban authorities. After three rounds, negotiations were concluded in November 2011. On 3 February 2012, the "Agreement between the Government of the Republic of South Africa and the Government of the Republic of Cuba on Economic Assistance" was signed in Pretoria by Minister Davies, on behalf of the South African Government, and by the Cuban Ambassador to South Africa, HE Angel Villa, on behalf of the Cuban Government.

The Agreement contains three parts: Main Agreement, Annex I, and Annex II. The Main Agreement sets out the parties to the agreement, their implementing agents, the value of the package, the scope of application, and other general terms and conditions. Annex I sets out the specifications required for acquisition of South African seeds. Annex II operationalises Cuba's use of the package and these include terms and conditions for utilizing the grants and the credit lines.

Objective

The objective of the package is to stimulate bilateral trade relations between South Africa and Cuba. The package will be used to purchase goods and associated services in the South African market. In addition, it will assist Cuba with development of its agriculture as well as reconstruction of infrastructure destroyed by Hurricanes in 2008.

Legal Implications

The Agreement was taken through the legal process in the Republic, through Departments of Justice and Constitutional Development, and of International Relations and Cooperation prior to the signing by the Minister as per requirement. Both departments found that the Agreement is not in conflict with any domestic laws and it is also consistent with international law and the country's international obligations. The Office of Chief State Law Adviser at the Department of Justice and Constitutional Development advised that, after signature, the Agreement be taken through ratification process in line with Section 231 (2) of the Constitution.

President's Minute was obtained to enable the Minister to sign the Agreement. Following signature, on 20 March 2012, Cabinet approved that the Agreement be submitted to Parliament for ratification.

Financial Implications

The financial package set out in the Agreement is structured as follows:

- **FACILITY A:** Grant of R40 million for the purchase of seeds of which R5 million is allocated for purchase of seeds in South Africa, and the remaining R35 million for purchase of seeds either in South Africa or elsewhere in the world.

- **FACILITY B:** Solidarity Grant of R 100 million for the purchase of goods in the South African Market.

- **FACILITY C:** R210 million credit line wherein a first tranche of R70 million will be made available immediately on entry into force of the Agreement, and a R140 million second tranche will be made available after the repayment of the initial R70 million.

The grants are non-repayable. The credit lines are repayable with interest. The interest rate on the first tranche of R70 million is 3% and it is repayable over a twelve (12) months period. On the second tranche of R140 million, an interest rate of 4% is charged over five (5) years repayment period. The second tranche will only be available after the first tranche is fully repaid (principal plus interest).

The interest charged on credit lines will be used to pay management fees due to the IDC for acting as the Facility Agent on behalf of the Government. For its services, the IDC will charge approximately R13.4 million for the total nine year duration of the Agreement. No funds will be transferred directly to Cuba. Rather, the IDC will directly pay exporters of goods and associated services for goods and services destined to Cuba under the arrangement. Payments would be made in Rands, and Cuba will repay the Rand equivalent with regards to the credit lines it utilises.

Sources of Funds for the Package

All the funds for the package have been secured within government departments. DIRCO, through the Africa Renaissance and International Cooperation Fund, will contribute R100 million towards the package and the **dti** will contribute the remaining balance of R250 million through the ECIC.

Implementation and Monitoring

The dti will act as the so-called Competent Authority responsible for overseeing implementation of the Agreement on behalf of the South African Government. Whilst the IDC will be appointed as the Facility Agent that will act on behalf of **the dti** once the Agreement enters into force. **The dti**, in consultation with the Technical Committee, will negotiate and conclude a memorandum of agreement with IDC that will set out the day-to-day implementation of the Agreement. The IDC will provide quarterly reports to **the dti** on the utilization of the scheme.

The Technical Committee will be responsible for the monitoring and evaluation of the functioning of the arrangement.