

# **AGREEMENT FOR COOPERATION AND INVESTMENT FACILITATION BETWEEN THE GOVERNMENT OF THE FEDERAL REPUBLIC OF BRAZIL AND THE GOVERNMENT OF THE REPUBLIC OF MOZAMBIQUE**

The Government of the Federative Republic of Brazil

And

The Government of the Republic of Mozambique (hereinafter referred to as "the Parties" or individually as "the Party"),

Searching to strengthen and deepen the bonds of friendship and the spirit of continued cooperation between the Parties;

Seeking to stimulate, accelerate and support bilateral investment, opening new integration initiatives between the two countries;

Recognizing the essential role of investment in promoting sustainable development, economic growth, poverty reduction, job creation, expansion of productive capacity and human development;

Understanding that the establishment of a strategic partnership between the parties, in terms of investment, will bring large and reciprocal benefits;

Recognizing the importance of promoting a transparent, responsive and friendly environment for mutual investment of the Parties;

Reaffirming their legislative autonomy and space for public policy;

Intending to encourage and strengthen the contacts between the private sector and the governments of both countries;  
Looking and create a technical dialogue mechanism and government initiatives that contribute to increasing their mutual investment;

Agreed, in good faith, the following Cooperation Agreement and Investment Facilitation, hereinafter "the Agreement", as follows:

## **Section I. General Provisions**

### **Article 1. Object**

This Agreement is subject to cooperation between the Parties to facilitate and promote reciprocal investments.

### **Article 2. Delivery Mechanisms**

This Agreement shall be operated by the national institutions of the two Parties and the Joint Committee as provided in this agreement, the establishment of thematic agendas of cooperation and facilitation of investments and the development of mechanisms for risk mitigation and conflict prevention, among other mutually agreed instrument.

### **Article 3. Definitions**

For the purposes of this Agreement:

1. "Investment" means any kind of assets or rights owned or controlled directly or indirectly by an investor of a Party in the territory of the other Party for the purpose of establishing lasting economic relations and for the production of goods and services, in particular:

1. a society, company, equity interest ("equity") or other interest in a company or firm;
  - ii. movable and immovable property and any other property rights such as mortgage, lien, pledge, usufruct and similar rights;
  - iii. the amount invested in the rights business concessions conferred by law, administrative decisions or under contract, including concessions for search, development, extraction or exploitation of natural resources.
2. "investor" of a Party means:
  - i. any natural person who is a national of each of the Parties in accordance with their legislation;
  - ii. any legal person or other organization structured in accordance with applicable law in the Party's territory in which the investment is established; or
  - iii. any entity not structured in accordance with the law of that Party but controlled by an investor as defined in letter i. and ii.; and
  - iv. All the legal entity that has its head office in that Party and there has the center of its economic activities; and
  - v. any natural or legal person as defined in the preceding paragraphs, to carry out an investment in the other Party authorized where the legislation of each Party so decides.
3. "Proceeds" means the values obtained by an investment and in particular, though not exclusively, include profit, interest, capital gains / capital gains, dividends, "royalties" or fees.
4. "Territory" means the territory of each Party as well as its exclusive economic zone, territorial sea and the subsoil over which the Party exercises, in accordance with international law, sovereign rights or jurisdiction.
5. "Corporate Governance" means the institutional framework established by this Agreement.
6. "Ombudsman" means focal point with facilitator functions provider as the tasks set out in Article 5.

## **Section II. Institutional Governance**

### **Article 4. Joint Committee**

1. For the purposes of this Agreement, the Parties shall establish a Committee hereinafter "Joint Committee".
2. The Joint Committee shall be composed of government representatives of both parties appointed by the respective governments.
3. The Joint Committee shall meet at such times and places that the parties agree, with alternating presidencies between the Parties shall be held at least one meeting a year.
4. The Joint Committee shall have the following duties and responsibilities:
  - i. monitor the implementation and execution of this Agreement;
  - ii. discuss and share opportunities for expansion of mutual investment;
  - iii. coordinate the implementation of cooperative and mutually agreed facilitation agendas;
  - iv. Solicit and welcome the participation of the private sector and civil society, where appropriate, on specific issues related to the work of the Joint Committee;
  - v. seek consensus and resolve amicably any questions or conflict on investments Party.
5. The Parties may establish working groups ad hoc, which will meet jointly or separately from the Joint Committee.
6. The private sector could be invited to join the ad hoc working groups, when so permitted by the Joint Committee.
7. The Joint Committee will draw up its own regulations which concerns the procedures for its operation.

### **Article 5. Focal Points (ombudsmen)**

1. The Parties shall establish Focal Points ("Ombudsmen") which will primarily function to government support for investments of the other Party held in his country.
2. In the case of the Federative Republic of Brazil, the Ombudsman will be established in the Foreign Trade Chamber - CAMEX.
3. In the case of Mozambique, the Focal Point will be established in the Board of Investment.
4. The focal point shall perform the following tasks:
  - i. meet the Joint Committee's guidelines and interact with the Focal Point of the other Party, noting the terms of this Agreement;
  - ii. interact with the relevant government authorities to evaluate and recommend, where appropriate, referrals to the suggestions and complaints received from governments and investors of the other Party, informing the government or interested investor, the result of actions taken;
  - iii. directly act to prevent disputes and facilitate their resolution in coordination with relevant government authorities and in cooperation with relevant private entities;
  - iv. Provide timely and useful information to the Parties on policy issues related to investments in general or to specific agreed projects;
  - v. report to the Joint Committee activities and actions.
5. Each Party shall develop the terms of reference to guide the overall operation of Focal Points, expressly provides, and where appropriate, deadlines for implementation of each of its duties and powers.
6. Each Party shall appoint as its focal point, only an organ or authority competent to monitor the implementation of this Agreement, which will have its official contacts available and should respond quickly and attention to communications and requests the other Party.
7. The Parties shall provide the means and resources to the Focal Point perform their duties and ensure its institutional access to other government agencies that address the themes set out in this Agreement.

## **Article 6. Exchange of Information between the Parties**

1. The Parties shall exchange information whenever possible and relevant for reciprocal investment on business opportunities, procedures and requirements for investments, in particular through the Joint Committee and its focal points.
2. For this purpose, the Parties shall provide, upon request, promptly and to the level of protection granted to information, data having regard in particular to the following items:
  - i. legislation relating to investment;
  - ii. Exchange legislation;
  - iii. specific incentives;
  - iv. Public policies that can affect investments, as well as the establishment of companies and joint ventures;
  - v. relevant international treaties;
  - vi. Customs and tax regimes;
  - vii. Statistical information on goods and services markets;
  - viii. Infrastructure and public services;
  - ix. labor law;
  - x. immigration laws;
  - xi. information on legislation of specific economic sectors or areas previously identified by the Parties; and
  - xii. regional investment projects.

3. The Parties will also discuss initiatives to strengthen the role of investors in Public-Private Partnerships (PPP), especially through greater transparency and faster access to regulatory information.
4. The Parties shall fully respect the level of protection afforded to such information as requested by the Party providing the information.

## **Article 7. Relationship with the Private Sector**

1. The Parties shall encourage the involvement of the private sector, as intervener fundamental and directly interested in the best results arising from this Agreement.
2. The Parties shall disseminate the relevant business sectors, the general information on investments, legislation and business opportunities in the territory of the other Party.

## **Section III. Thematic Agendas for Cooperation and Facilitation of Investments**

### **Article 8. Thematic Agendas**

1. The Joint Committee will develop thematic agendas Cooperation and Facilitation issues relevant to the development and enhancement of bilateral investments. The topics to be treated initially and objectives are listed in Annex I - "Thematic Agendas for Cooperation and Facilitation."
2. For the purposes of paragraph 1, the calendars will be discussed between the relevant government authorities of both Parties and may give rise to discussions in order to reach common understanding on the matter.
3. The results of the discussions will be the subject of additional protocols to this Agreement or give rise to specific legal instruments.
4. The Joint Committee will coordinate the implementation of timetables for discussions involving such thematic agendas of the cooperation and facilitation and discussion of specific commitments.
5. The Parties shall submit to the Joint Committee the names of government agencies and their officials, involved in these discussions.

## **Section IV. Risk Mitigation and Dispute Prevention**

### **Article 9. Expropriation, Nationalization and Compensation**

1. No Party in accordance with its legal system, expropriate or nationalize a covered investment by this agreement unless it is:
  - i. because of use or public interest;
  - ii. a non-discriminatory manner;
  - iii. by adequate and effective compensation as set out in paragraphs 2 to 4 of that Article; and
  - iv. In accordance with the principle of due process.
2. Compensation shall:
  - i. be paid without delay in accordance with the law of the receiving Party;
  - ii. be equivalent to the fair market value that has expropriated investment immediately before the expropriation performed ("date of expropriation");
  - iii. not reflect a negative change in market value in knowledge function of the intention to expropriate in advance the date of expropriation; and
  - iv. Be fully liquidable and be completely and freely transferable in accordance with the Transfer Article.
3. If the fair market value is denominated in an internationally convertible currency, the compensation paid shall not be less

than the fair market value on the date of expropriation, plus interest accrued from the date of expropriation until the date of payment, in accordance the law of the Receiving Party.

4. If the fair market value is denominated in a non-convertible currency internationally, the compensation paid shall not be less than the fair market value on the date of expropriation, plus interest and, if any, monetary, accrued from the date of expropriation until the date of payment in accordance with the law of the Receiving Party.

## **Article 10. Corporate Social Responsibility**

Investors and their investments should strive to achieve the highest possible level of contributions to the sustainable development of the receiving State and the local community, through the adoption of a high degree of socially responsible practices, by reference to the voluntary principles and standards set in Annex II - "Corporate Social Responsibility".

## **Article 11. Treatment of Investors and Investments**

1. Each Party shall, in accordance with its legal system, it should allow and encourage the investments of the other Party in its territory and create favorable conditions for such investments.

2. Each Party shall, subject to applicable law, will allow investors of the other Party to establish investments and conduct business on terms no less favorable than those available to other domestic investors.

3. Each Party shall permit investors of the other Party to establish investments and conduct business on terms no less favorable than those available to other foreign investors.

4. This article shall not be interpreted as an obligation to a Party to grant investors of the other Party with respect to their investments the benefit of any treatment, preference or privilege resulting from any free trade areas, customs unions or markets existing or future common that each party is a member or who might join.

5. This Article shall not be construed as an obligation to a Party to grant investors of the other Party with respect to their investments the benefit of any treatment, preference or privilege resulting from any investment agreements to avoid double taxation existing or futures that each party to this Agreement is a party or that may be.

6. Nothing in this Agreement shall be construed so as to prevent the adoption or enforcement of any measure aimed at ensuring the equitable or effective imposition or collection of taxes as provided for in Part legislation.

## **Article 12. Compensation**

1. Investors of both parties who suffer losses of their investments in the territory of the other Party due to war or other armed conflict, state of emergency, revolt, lifting or disorders should be allocated with regard to restitution, compensation, compensation or other solution, a treatment no less favorable than that granted to its own investors or investors of any third state, whatever the most favorable. Payments resulting shall be transferable without delay in freely convertible currency.

2. Without prejudice to the provisions of the preceding paragraph of this Article, investors of a Party in any of the situations referred to in paragraph 1, suffer losses in the territory of the other Party as a result of:

i. acquisition of its investment or part thereof by the forces or authorities of the latter Party; or

ii. destruction of its investment or part thereof by the forces or authorities of the latter Party, shall receive promptly refund, compensation or indemnity that in one or another case, must be appropriate and effective.

## **Article 13. Transparency**

1. In line with the principles of this Agreement, each Party shall ensure that all measures affecting investments are administered in a reasonable, objective and impartial in accordance with its legal system.

2. Each Party shall ensure that its laws and regulations relating to any matter covered by this Agreement, in particular as regards qualifications, licensing and certification, be published without delay and, where possible, in electronic format.

3. Each Party shall use its best efforts to allow a reasonable opportunity for interested parties to be revealed on the measures proposed.

4. The Parties shall give due publicity to this Agreement with the respective financial, public and private agents, responsible for the technical risk assessment and approval of loans, credits, guarantees and insurance related to investments in the territory of the other Party.

## **Article 14. Transfers**

1. Each Party shall permit the transfer of resources related to investment, provided the procedures of registrations and authorizations established by legislation of the Parties, namely:

- i. the initial capital and any additional capital for the maintenance or extension of the investment;
- ii. directly related to investment income;
- iii. the sale or total or partial liquidation of the investment;
- iv. The direct loan repayments related to investment and interest thereon;
- v. the amount of compensation in case of expropriation or temporary use of the investment of an investor of the other Party by the State receiving the investment that Party; when the compensation is paid in securities, the investor of the other Party may transfer abroad the amount that may derive from the sale of those shares.

2. Nothing in this Agreement shall affect the right of a Party to adopt regulatory measures related to balance of payments for balance of payments crises, not affect the rights and obligations of members of the International Monetary Fund contained in the Agreement Establishing the Fund, in particular the use of exchange actions which are in conformity with the provisions of the Agreement.

3. The adoption of restrictive measures on transfers in the case of the existence of serious difficulties of Balance of Payments, must be non-discriminatory and consistent with the Articles of Agreement of the International Monetary Fund.

## **Article 15. Prevention and Resolution of Disputes**

1. The Focal Points will act pivotally with each other and the Joint Committee in order to prevent, manage and resolve any disputes between the parties.

2. Before starting any arbitration, any dispute between the parties should be assessed through consultations and negotiations, and examined preliminarily by the Joint Committee.

3. A Party may submit a specific issue of interest of an investor to the Joint Committee:

i. to initiate the procedure, the interested investor Party shall submit in writing its request to the Joint Committee, specifying the name of the investor concerned and the challenges or difficulties encountered;

ii. the Joint Committee will have 60 days, extendable by mutual agreement, by 60 days, upon justification, to submit any relevant information of the case presented;

iii. in order to facilitate the search for solution among the parties concerned, wherever possible, should participate in all or part of the bilateral meeting:

- a) investor representatives interested;
- b) representatives of governmental or non-governmental entities involved in the measure or query object situation.

iv. The dialogue procedure and bilateral consultation closes on the initiative of any of the Parties involved by submitting report summarized the meeting of the Committee following set with:

- a) the identification of the Party;
- b) identification of interested investors;
- c) description of the measure query object; and
- d) the position of the Parties in respect of the measure.

4. The Joint Committee shall, whenever possible, to convene special meetings to assess the questions referred.

5. All documentation and arrangements for the mechanism set out in this article, as well as the Joint Committee meetings,

will have reserved character except the submitted reports.

6. If you can not resolve the dispute, the parties may resort to arbitration mechanisms between States to be developed by the Joint Committee, when deemed appropriate by the Parties.

## **Article 16. Application of the Agreement**

1. This Agreement shall apply to all investments made before or after its entry into force.

2. This Agreement may not be invoked to question previously settled dispute by exhaustion of domestic remedies, where there is res judicata protection, or any claim concerning an investment which has been resolved before the entry into force.

3. This Agreement can in no way restrict the rights and benefits which an investor of a Party enjoys under national or international law in the territory of the other Party.

## **Article 17. Final and Transitory Provisions**

1. Considering the thematic breadth that issues related to investment demand, the Parties conclude that the main purpose of the creation of the aforementioned Joint Committee and Focal Points is the promotion of institutional governance in this area by establishing a specific forum and technical channels act as facilitators between governments and the private sector.

2. Neither the Joint Committee or focal points, formalized this Agreement supersede or prejudice in any way the established diplomatic action between countries or any other agreements signed by the Parties.

3. This Agreement shall enter into force thirty (30) days after the date of receipt of the notification, in writing and through diplomatic channels, that the domestic legal requirements of the Parties to this effect have been met, and remain in force for period of 20 years, automatically renewable for successive periods, unless one of the parties notifies the complaint to another with a minimum of 12 months.

Done at, in 2015, in duplicate in the Portuguese language, both texts being equally authentic.

THE FEDERAL REPUBLIC OF BRAZIL GOVERNMENT FOR THE GOVERNMENT OF THE REPUBLIC OF MOZAMBIQUE

1. Payments and Transfers Cooperation between the respective financial authorities will aim to facilitate the remittance of foreign exchange and capital between the parties, within the applicable legal framework.

ii. Cooperation between monetary authorities will address, among others, the issues previously identified by the Central Bank of Brazil (BCB), the Brazilian Cooperation Agency (ABC) and the Bank of Mozambique in the following areas: risk management; payment system; financial inclusion; internal audit; document management, contracts and equity; strategic planning and human resources; or new topics to be agreed in the future.

2. Visas

i. The Facilitation of Visa Business Award from the Government of Mozambique and the Government of the Federative Republic of Brazil will be subject to a specific protocol to be signed between the two states.

3. Environmental legislation and technical regulations

i. Subject to the domestic legislation, the Parties shall make more expeditious, transparent and agile procedures for issuing documents, licenses and related certificates necessary for the prompt establishment and maintenance of the investments of the Parties.

ii. Any consultation of the Parties, and also their economic agents and investors in the commercial register, technical requirements and environmental standards receive diligent and timely treatment of the other Party.

4. Cooperation in sectoral legislation and institutional exchanges

i. The Parties shall promote institutional cooperation for the exchange of experience in the design and implementation of sectoral legislation.

ii. The Parties shall promote technological, scientific and cultural cooperation through the implementation of actions, programs and projects for the exchange of knowledge and experiences, in accordance with their mutual interests and development strategies.

The Parties agree that access to and the eventual technology transfer will be carried out as far as possible, without charge and to contribute to effective trade in goods, services and related investment.

iii. The Parties shall seek to promote, coordinate and implement cooperation for manpower training through greater interaction between national institutions.

iv. Will be created in cooperation forums and exchange of experiences of solidary economy, assessing support mechanisms to cooperatives, family agriculture programs and other solidary economic enterprises linked to investments made or to be made.

v. The Parties shall promote institutional cooperation for greater integration logistics and transport, in order to open new routes and increase, where possible and appropriate, its maritime connections and merchant fleets.

vi. The Parties shall also promote institutional cooperation for the development and planning / energy planning, including the management of cross-border entities, as well as models of environmental conservation, and carbon and water management.

vii. The Joint Committee may identify other areas of mutual interest for cooperation on sectoral legislation and institutional exchange.

Investors and their investments will develop its best efforts to observe the following voluntary principles and standards for responsible business conduct, consistent with the laws adopted by the State Party receiving the investment:

i. Foster economic, social and environmental progress in order to achieve sustainable development;

ii. Respect the human rights of those involved in the activities of these companies, consistent with international obligations and commitments of the receiving Party;

iii. Encourage the strengthening of local capacities, through close cooperation with the local community.

iv. Encourage the formation of human capital, in particular by creating employment opportunities and facilitating access of workers to training;

v. Refrain from seeking or accepting exemptions not established in the legislation of the receiving Party in relation to the environment, health, safety, labor, financial incentives or other issues;

vi. Support and maintain the principles of good corporate governance, and develop and apply good corporate governance practices;

vii. Develop and implement effective autorreguladas practices and management systems that foster mutual trust between companies and companies in which conduct their operations;

viii. Promote knowledge workers as the business policy through the appropriate dissemination of this policy, including using professional training programs;

ix. Refrain from discriminatory or disciplinary action against employees who make serious reports to management or, where appropriate, the competent public authorities, on practices breaking the law or violating the standards of good corporate governance to which the company is subject;

x. Encourage, where practicable, business partners, including contractors and service providers, to apply principles of corporate conduct consistent with the principles set out in this article;

xi. Respect the processes and local political activities.