

Agreement on the Reciprocal Promotion and Protection of Investments between the Republic of Zimbabwe and the People's Republic of Mozambique

The Government of the Republic of Zimbabwe and the Government of the People's Republic of Mozambique (hereinafter referred to as the "Contracting Parties")

Desiring to strengthen their traditional links of friendship, broaden and intensify their economic relations and encourage investment between their countries on a basis of equality and mutual benefit,

Have agreed as follows:

Article I.

For the purposes of this Agreement

1. The term "investment" shall include any type of asset intended for the realization of some economic undertaking by a national of either Contracting Party in the territory of the other Contracting Party, in particular, but not limited to:

(a) ownership over real estate and real property as well as any of the rights thereto;

(b) equity investments in companies or other economic ventures; and

(c) rights related to intellectual property, technical processes and know-how owned and registered by nationals of either Contracting Party within the territory of the other Contracting Party.

2. The term "national" shall include, in relation to any Contracting Party

(a) a natural person having the nationality or residence of that Contracting Party in accordance with its law; and

(b) a juridical person who is registered under the law of that Contracting Party and who is considered under its law to be a national or resident company.

Article II.

1. The Contracting Parties shall promote the development of economic cooperation between their nationals by encouraging investments made by their nationals in the territory of any of the Contracting Parties.

2. The Contracting Parties shall, subject to their respective laws and regulations, permit their nationals to participate, by means of investments, in the establishment and operation of productive activities in their respective territories and which contribute to improving the standard of living of their peoples and the prosperity of their countries.

Article III.

1. Each Contracting Party shall ensure fair and equitable treatment of investments by nationals of either Contracting Party and shall endeavour not to impair by unjustifiable or discriminatory measures the operation, management, maintenance, use, enjoyment and inherent possession of those investments by such nationals.

2. Each Contracting Party shall accord to such investments the same security and protection as it accords to its own nationals or the nationals of any third State, except where its laws or special treaties provide otherwise.

3. Each Contracting Party reserves the right to refuse to extend the benefits of this Agreement to any national, if such national is controlled by another national or company of a third State, or in cases where such national does not carry on

substantial activities in the territory of the other Contracting Party or is controlled by other nationals or companies of third States with whom the refusing Contracting Party does not have any existing bilateral investment protection agreement.

Article IV.

1. Recognizing the principle of the right to transfer exportable funds resulting from or in connection with investment activities, each Contracting Party shall permit, in accordance with its applicable laws and without undue delay or restriction, the transfer to the territory of the other Contracting Party, in convertible currency, and in particular the following items:

(a) net profits, dividends c other exportable income;

(b) income of foreign natural persons defined in terms of paragraph 2(a) of Article 1 of this Agreement, contracted for the implementation of investment projects;

(c) the allocation of re-exportable capital.

2. The principle enshrined in the preceding paragraph shall also apply with respect to the following items where the original source of such items was the country of the Contracting Party to which such items are to be, reciprocally and where necessary, transferred:

(a) the funds necessary for the replacement of fixed assets and for the purchase of raw and subsidiary materials, semi-finished and/or finished products necessary to safeguard the continuity of investment activities;

(b) additional funds needed for the development and/or expansion of investments;

(c) funds for the reimbursement of loans contracted abroad and for the payment of the respective interest;

d) management fees and royalties.

Article V.

1. No Contracting Party shall take any measure that may deprive, directly or indirectly, the nationals of the other Contracting Party of their legal rights in their investments, unless the following conditions are fulfilled:

(a) the measures are taken in the public interest and through due process of law;

(b) the measures are not discriminatory or contrary to what the Contracting Party taking such measures has granted to a national affected by such measures;

(c) the measures are accompanied by steps to ensure that fair compensation is actually paid. Such compensation shall represent the real value of the investments concerned and, in order to be effective for the claimant, shall be paid and transferable in convertible currency without undue delay to the Country of the Contracting Party of which the claimant is a national.

Article VI.

1. If all administrative and legal remedies have been exhausted, and so long as neither Contracting Party or both Contracting Parties are members of the International Centre for Settlement of Investment Disputes between States and Nationals of other States established by the Washington Convention of 18 March 1965 the Contracting Party in whose territory a national of the other Contracting Party has made or intends to make an investment shall consent to the request of that national to submit for arbitration or conciliation, through the ICSID Additional Facility, any dispute which may arise in connection with his investment. Once both Parties are members of the said Convention and Center and have amended this Agreement in accordance with Article XI, the settlement of disputes may thereafter be carried out through the arbitration or conciliation rules and procedures of the said Convention and Center.

2. Any dispute arising between the Contracting Parties relating to the interpretation or application of this Agreement shall, if not settled by negotiations between the Contracting Parties within a reasonable period, be submitted to arbitration by an arbitral tribunal established and functioning pursuant to such rules as the Contracting Parties may mutually agree on the basis of the recommendations of the Joint Commission provided for in Article IX.

Article VII.

If a national of either Contracting Party has duly transferred any quotas, shares and/or rights in its investments held under a statutory non-commercial risk guarantee scheme to the other Contracting Party or to one of its nationals at the request of that Contracting Party or its national, such other Contracting Party shall recognize the subrogation made and any applicable compensation for such subrogated quotas, shares and/or rights.

Article VIII.

This Agreement shall apply only to investments by nationals of either Contracting Party which have been duly authorized and made in the territory of the other Contracting Party as from September 5, 1984.

Article IX.

1. The Contracting Parties agree to establish a Joint Committee consisting of representatives to be appointed by each Contracting Party.
2. The Joint Committee shall meet at the request of either Contracting Party to discuss any matter relevant to the implementation of this Agreement and to make recommendations to their respective Governments where the objectives of this Agreement may be extended.

Article X.

1. The provisions of this Agreement shall apply only to those investments which have been duly authorized under the relevant laws and regulations of the Contracting Party in whose territory such investments are or have been made.
2. Nothing in this Agreement shall, in respect of any matter covered by this Agreement, deprive the national of either Contracting Party of the right to benefit from any more favourable rights accorded to him by the other Contracting Party.

Article XI.

Should any multilateral convention relating to investment protection enter into force of which both Contracting Parties are members, this Agreement may be amended in order to bring it into conformity with the provisions of that convention, if this is in the interest of both Contracting Parties.

Article XII.

1. This Agreement shall enter into force on the date to be fixed by exchange of letters through normal diplomatic channels, following which both Contracting Parties shall inform each other in writing that the constitutional or legal procedures required in their respective countries have been complied with.
2. This Agreement shall be valid for a period of ten (10) years, and shall henceforth be automatically renewable unless either Contracting Party, by giving notice six (6) months prior to the expiration date, requests in writing that it wishes to terminate this Agreement.
3. With respect to investments made before the expiration date of this Agreement, the validity of the preceding articles shall remain in force for a further period of ten (10) years from that date, except where a different period has been agreed upon in the approval procedures for each particular investment.
4. Notwithstanding the provisions contained in this Agreement, the Contracting Parties may, by mutual consent, amend this Agreement or parts thereof.

In witness whereof, the undersigned representatives of the Contracting Parties, being duly authorized thereto, have signed this Agreement.

Done at Harare, Zimbabwe, this 12th day of September 1990, in two original copies, in the English and Portuguese languages, both texts being equally authentic.

For the Government of the Republic of Zimbabwe

Dr. Bernard T. G. Chidzero

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For the Government of the People's Republic of Mozambique

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