

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

The Government of Angola and the Government of the Federative Republic of Brazil, 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 aims at the facilitation and promotion of mutual investments, with a view to intensifying and expanding opportunities and business activities between the Parties.

### **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 reduction and prevention of disputes, among other mutually agreed instrument.

### **Article 3. Definitions**

For the purposes of the present Agreement, the definitions of investment, investor and other settings relating to this matter shall be governed by their legal systems of the Parties.

## **Section II. Institutional Management**

### **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 and discuss the implementation and operation 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. Request 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 issues or conflicts on the investments of the Parties; and
  - vi. Set or develop a standard mechanism for the settlement of disputes by arbitration between states.
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. Representatives of non-governmental organizations may be invited by the Joint Committee to present studies related to issues of interest to the Parties.
8. 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 Angola, the Focal Point will be established in the Secretariat of State for Cooperation of the Ministry of Foreign Affairs.
4. The focal point shall perform the following tasks:
  - i. Efforts to meet the Joint Committee's recommendations and interact with the Focal Point of the other Party, noting the terms of this Agreement;
  - ii. Interacting with the relevant government authorities to evaluate and recommend, where appropriate, the proper treatment for 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 of its activities and actions.
5. Each Party shall develop the terms of reference to guide the overall operation of Focal Points, expressly provides, and where possible, 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 carry out their duties and ensure their 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 that can encourage favorable investment conditions and having regard, in particular with the following items:

- i. Legislation relating to investment;
- ii. Foreign Exchange Law;
- iii. specific incentives;
- iv. Public policies that may affect the investment and on 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. Public infrastructure and 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, subject to domestic laws on the subject.

## **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.

## **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 of this Article, the agendas will be discussed between the competent governmental 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 the discussion of specific commitments.

5. The Parties shall submit to the Committee set the appointment of government bodies and the names of the officials

involved in these discussions.

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

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

1. Investments made by investors of one Party in the territory of another Party may not be expropriated or nationalized, except:

- a) For purposes and for reasons of utility or public interest;
- b) In a non-discriminatory basis;
- c) upon payment of just compensation, adequate and effective, as established in paragraphs 2 to 4 of this Article;
- d) In accordance with due process.

2. The compensation shall be equal to the fair market value of the expropriated investment at the time the expropriation actually took place ("date of expropriation"). The fair market value shall not reflect any resulting negative change of the knowledge of the intention to expropriate in advance the date of expropriation. The compensation must be paid without delay in accordance with Part legislation where expropriation has occurred.

3. If the fair market value is denominated in an international convertible currency, the compensation paid shall not be less than the fair market value on the date of expropriation plus accrued interest from the date of expropriation until the date of payment, in accordance with law of the Party where the expropriation has occurred.

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 Part legislation where expropriation has occurred.

### **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 promote and accept investments of investors of the other Party may restrict certain investments in accordance with their respective legal systems.

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 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. The provisions of this Article shall not require any Party to accord to investors of the other Party the benefit of any treatment, preference or privilege by virtue of:

- a) Economic or Customs Unions, common markets, free trade zones or existing or future International Economic Cooperation Agreements to which each Party is a member or to which it accedes;
- b) Double taxation agreements or other existing or future international tax agreements to which each Party is a member or to which it accedes.

5. 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 according to the legislation of each Party.

6. Each Party may provide, based on laws and regulations, special procedures related to investors' investment activities of the other Party in its territory, provided that these special procedures do not affect the substance of the rights of such investors and the principle of non-discrimination.

7. Each Party, on its territory, grant investors of the other Party treatment no less favorable than that accorded in similar circumstances to its own investors or investors of a non-Contracting Party, with respect to access to the courts and administrative agencies, or the advocacy of such investors.

8. Each Party shall observe and comply with the obligations expressly assumed in relation to investments of investors of the other Party.

## **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, uprising or riots, should be allocated, as regards restitution, indemnification, compensation or other solution, a treatment no less favorable than that granted to its own investors or investors of any third state, whichever is 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 their investment in whole or in part by forces or other party authorities; or
- ii. destruction of their investment, in whole or in part by the forces or authorities other 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 manner, 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, to be published without delay and, where possible, in electronic format.

3. Each Party shall use its best efforts to allow reasonable opportunity for interested parties to express their views on the proposed measures.

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, especially 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 shall work in coordination with each other and the Joint Committee in order to prevent, manage and reach understandings with a view to achieving the objectives of this Agreement and resolve any disputes between the parties.
2. Before starting any arbitration any dispute between the Parties concerning the interpretation or application of this Agreement shall be assessed by means of 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 shall have a period of 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 bilateral dialogue and consultation procedure shall terminate at the initiative of any of the Parties concerned by submitting a summary report to the meeting of the subsequent Joint Committee with:
    - a) A identification of the Party
    - b) The identification of the interested investors
    - c) description of the measure subject to the consultation; 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 it is not possible to settle a dispute arising under paragraph 2 of this article on the recommendation of the Joint Committee, the Parties may resort to arbitration mechanisms between States to resolve the said dispute.

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

1. 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.
2. 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.
3. Subject to notification and consultation, a Party may deny the benefits of this Agreement to an investor of the other Party or investments of that investor if:
  - i. the individual investor is not a national or permanent resident of a Party under its law;
  - ii. the investor entity:
    - a) is not constituted under the law of a Party, has no head office in the territory of a Party and there does not perform activities or substantial business; or
    - b) is not owned or controlled effectively by nationals or permanent residents of the Parties, directly or indirectly, according to the corresponding legislation.

## 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 development of institutional management in the field, through the establishment of a specific forum and technical channels acting as facilitators between governments and the private sector.
2. The role of the Joint Committee or Focal Points established under this Agreement does not replace or affect diplomatic action between countries or any other agreements between the Parties.
3. This Agreement shall enter into force thirty (30) days after receipt of the last written notification to report on the completion of the internal procedures for this purpose through diplomatic channels.
4. This Agreement is valid for a period of ten (10) years, automatically renewable for equal and successive periods, unless one of the parties report, as provided in paragraph 5 of this Article.
5. A Party may terminate this Agreement by written notice to the other Party, with a minimum of twelve (12) months.

Done in Luanda on 1 April 2015, in duplicate in the Portuguese language, both texts being equally authentic.

### 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.

### 2. Visas

i. The Parties welcome the signing of the PROTOCOL BETWEEN THE FEDERAL REPUBLIC OF BRAZIL GOVERNMENT AND THE GOVERNMENT OF THE REPUBLIC OF ANGOLA ON FACILITATION OF VISAS, which among other aspects, ensures:

- a) The extension of the period of validity
- b) The extension of the period of stay;
- c) The right of multiple entry; and
- d) The celerity of the concession procedures

ii. In accordance with domestic law, each Party shall endeavor to facilitate the free movement of managers, executives, skilled employees of economic agents, entities, companies, investors of the other Party and other individuals wishing to enter its territory and stay for the purpose of carry out activities related to investments.

iii. When possible and appropriate, the relevant immigration authorities of the Parties shall endeavor to update a common understanding in order to strengthen the efforts to reduce deadlines, requirements and costs for possible grant of the appropriate visa for investors of the other Party.

iv. The Parties shall notify the Joint Committee of any changes in their domestic legislation, on business visas, and will carry out efforts within the Joint Committee to promote progress in facilitation of business visas, in accordance with this Annex.

### 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 commercial registration, 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.
- iii. The Parties agree that access to and the eventual technology transfer will be carried out as far as possible, in accordance with the understanding of the Parties to contribute to effective trade in goods, services and related investment.
- iv. The Parties shall seek to promote, coordinate and implement cooperation for manpower training through greater interaction between national institutions.
- v. The Parties agree to create forums for cooperation 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.
- vi. 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.
- vii. The Parties shall also promote institutional development cooperation and energy planning, including the management of cross-border entities, as well as models of environmental conservation, and carbon and water management.
- viii. 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. Respect the protection of the environment and sustainable development and encourage the use of technologies that do not harm the environment, in accordance with the national policies of the Parties in order to encourage economic, social and environmental progress;
- ii. Respect the human rights of those involved in the activities of these companies in accordance 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. Observe the laws on health, safety, the environment and labor commercial or industrial standards;
- vi. Refrain from seeking or accepting exemptions that are not established in the receiving Party's law with respect to environmental, health, safety, labor, financial incentives or other issues;
- vii. Support and maintain the principles of good corporate governance, and develop and apply good corporate management practices;
- viii. Develop and implement effective autorreguladas practices and management systems that foster mutual trust between enterprises and the societies in which conduct their operations;
- ix. Promote knowledge workers as the business policy through the appropriate dissemination of this policy, including using professional training programs;
- x. Refrain from discriminatory or disciplinary action against employees who make serious reports to management or, where appropriate, the competent public authorities, on practices that contravene the law or violate the standards of good corporate governance to which the company is subject;
- xi. Encourage, where practicable, business partners, including contractors and service providers, to apply principles of corporate conduct in accordance with the principles set out in this article;
- xii. Respect the processes and local political activities.