Agreement on the Reciprocal Promotion and Protection of Investment between the Republic of Mozambique and the Arab Republic of Egypt

The Government of the Republic of Mozambique and the Government of the Arab Republic of Egypt, hereinafter referred to as the "Contracting Parties";

Desiring to create favourable conditions for an increased circulation of investments made by investors of each Contracting Party in the territory of the other Contracting Party;

Recognizing that the reciprocal encouragement and protection of investments will further stimulate the development of entrepreneurial initiatives and increase prosperity in the territories of both Contracting Parties;

Have agreed as follows:

Article 1. Definitions

1. For the purpose of this Agreement:

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(A) the term "Investment" means any type of property applicable under the laws of the Contracting Party where the deal is being carried out and in particular, but not exclusively, includes:

(i) movable and immovable property as well as any rights related to financing, alienation or pledge;

(ii) Shares, stocks, bonds or any other form of participation in a company;

(iii) rights of pecuniary value arising from any contractual action of economic value;

(iv) Industrial and intellectual property rights such as copyrights, utility model patents, registered trademark designations, trade names, technical processes, know how and prestige;

(v) Economic values of concession or license rights granted in accordance with law or under contract, including concessions for exploration, extraction and exploitation of natural resources.

B) The term "Returns" means all amounts produced by an investment and in particular, but not limited to, profits, interest, capital gains, dividends, patent payments or other fees;

(C) The term "Investor" means for the Contracting Parties:

(i) The "National" who is a natural person in good standing as a citizen of such Contracting Party in accordance with the applicable laws of such Contracting Party;

(ii) The term "Company" means any legal person such as a corporation, firm or association formed in accordance with the law of such Contracting Party.

(D) The term "Territory" means, the territory of a Contracting Party including the territorial sea and any maritime area beyond its territorial sea, referred to by the national law of that Contracting Party, in accordance with international law, as being an area of jurisdiction and the exercise of sovereign rights.

2. Any change in the form in which the assets are or have been invested does not affect their qualification as investment for the purposes of this Agreement.

Article 2. Investment Promotion and Protection

1. Each Contracting Party shall, in accordance with its legislation on foreign investment, permit and encourage investments by nationals and enterprises of the other Contracting Party in its territory and create favorable conditions for such investments.

2. Each Contracting Party shall, in accordance with its law, grant the necessary licences for implementing such investments and, where appropriate, conclude licensing agreements and contracts for technical, commercial or administrative assistance.

3. In order to create favourable conditions for the assessment of the financial position and performance of activities related to investments made in the territory of the other Contracting Party, such Contracting Party shall, in addition to its own bookkeeping and auditing requirements, permit the investment to be also subject to bookkeeping and auditing in accordance with the standards to which the investor is subject or its national requirements and/or in accordance with internationally accepted standards (such as the International Accounting Standards (IAS) developed by the International Accounting Standards Committee (IASC)). The bookkeeping and auditing as well as the results thereof must be easily accessible to the investor.

Article 3. Treatment of Investments

1. Investors and investment returns of a Contracting Party shall be accorded fair and equitable treatment and enjoy full protection in the territory of the other Contracting Party. No Contracting Party shall in any way impair by arbitrary or discriminatory measures the management, maintenance, use, enjoyment or disposition of investments in its territory by the investor of the other Contracting Party.

2. Each Contracting Party shall accord to investors and investments and returns of the other Contracting Party treatment no less favourable than that accorded to its own investors or investments and returns of investors of a third State.

3. The provisions of paragraph (2) shall not be construed as obliging any Contracting Party to extend to investors of another Contracting Party the benefits of any treatment, preference or privilege resulting from:

(A) any customs union, free trade area, common market existing or coming into existence or , any similar international agreement or interim arrangement leading to customs unions, preferential trade area, common market of which .one of the Contracting Parties is a member;

(B) Any international agreement or arrangement or domestic legislation related in whole or in part to taxation;

(C) special advantages to foreign development finance institutions operating in the territory of a Contracting Party for the exclusive purpose of development assistance through non-lucrative activities.

Article 4. Compensation for Losses

1. Investors of a Contracting Party whose investments in the territory of another Contracting Party in the territory of the other Contracting Party suffer loss as a result of war or any armed conflict, revolution, state of emergency, riot, insurrection, disturbance or uprising in the territory of the latter Contracting Party. In the case of a non-Contracting Party, it shall be granted to its investors or to investors of a third State.

2. Without derogating from the provisions of paragraph (1) of this Article, investors of any Contracting Party in any of the situations referred to in that paragraph shall suffer losses in the territory of the other Contracting Party resulting from

(A) the seizure of their property by the forces or authorities of the other Contracting Party under and within the scope of the legal provisions of its powers, duties and command structure; or

(B) destruction of their property by the forces or authorities of the other Contracting Party which was not caused by combat or the observance of any legal requirement.

Article 5. Nationalization and Expropriation

1. Investments of an investor of a Contracting Party in the territory of the other Contracting Party shall not be nationalized, expropriated or otherwise subjected to any similar measure having equivalent effect to nationalization or expropriation except in cases of public interest and in accordance with legal procedures on a non-discriminatory basis, ensuring that this is accompanied by effective, adequate and prompt compensation. Any such compensation shall include interest at the normal market rate until the date of payment and shall be made without delay and actually enforceable.

2. The investor aggrieved by the expropriation shall have the right, in accordance with the law of the expropriating Contracting Party, to take prompt recourse to a court of law or other independent and impartial forum of the said Contracting Party for the evaluation of his case and of his investment in accordance with the principles mentioned in paragraph (1) of this Article.

Article 6. Capital Transfer of Investments and Returns

1. Each Contracting Party shall, in accordance with paragraph (3) of this Article, permit investors of the other Contracting Party, to freely transfer funds relating to investments and returns, including compensation paid pursuant to the provisions of Articles 4 and 5 of this Agreement.

2. All transfers shall be made without delay in any convertible currency at the exchange rate of the day of transfer. In the absence of an exchange rate, the exchange rate to be used shall be the most recent one applied to domestic investments for the conversion of currencies for Special Drawing Rights, whichever is more favorable to the investor.

3. Transfers shall be made in accordance with the legislation in force. However, the application of such legislation shall not prejudice or impede the rights referred to in paragraphs 1 and 2 of this Article.

Article 7. Settlement of Disputes between an Investor and a Contracting Party

1 . If a legal dispute between a Contracting Party and an investor of the other Contracting Party concerning an investment is not amicably settled within six months after written notification of the claim, it shall be submitted to international arbitration if that is the wish of the investor.

2. If the dispute is submitted to international arbitration, the investor and the Contracting Party may agree on one of the following procedures:

(a) Submission to the International Centre for Settlement of Investment Disputes (ICSID) under the International Convention on the Settlement of Investment Disputes between States and Citizens of Other States, signed at Washington D. C., cm March 18, 1965, if such Contracting Party is a party to the Convention. If these requirements are not fulfilled, each Contracting Party shall agree that the dispute be resolved in accordance with the Additional Facilitation Rules for the Administration of Procedures by the ICSID Secretariat;

(b) the appointment of an international arbitrator or the establishment of an Ad-Hoc tribunal.

3. If after a period of three months from the written notification of the investor's decision to refer the dispute to international arbitration, there is no agreement in one of the alternative procedures referred to in paragraph (2), the dispute shall, at the written request of the investor concerned be dealt with under the procedures preferred by the investor.

4. The arbitration award pursuant to paragraphs 2 or 3 of this Article shall be final and binding.

Article 8. Disputes between the Contracting Parties

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, if possible, be settled by negotiation between the Governments of the Contracting Parties.

2. If the dispute is not so settled, it may, at the request of any Contracting Party, be submitted to an arbitral tribunal.

3. The aforementioned tribunal shall be constituted for each particular case as follows:

Within a period of two months after receipt of the request for arbitration, each Contracting Party shall appoint one member to the tribunal; the two members shall select a national of a third State who, with the approval of the Contracting Parties, shall be appointed chairman of the tribunal; the chairman of the tribunal shall be appointed within a period of two months from the date of the appointment of the other two members.

4. If within the periods specified in paragraph (3), the necessary appointments have not been made, any Contracting Party may, in the absence of any other applicable agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of one of the Contracting Parties or for any reason is prevented from performing that function, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is also prevented from performing such function, the next highest ranking member of the International Court of Justice who is not a national of any Contracting Party shall be invited to make the necessary appointments.

5. The decisions of the Tribunal shall be taken by a majority vote of its members. Such decisions shall be final and binding

on the Contracting Parties. Each Contracting Party shall bear the expenses of its member on the tribunal and its representation at the arbitral proceedings. The costs of the chairman and other expenses shall be shared equally by the Parties. However, the tribunal may, in its decisions, direct that a greater proportion of the costs be borne by one of the Contracting Parties. The tribunal shall determine its own procedures.

Article 9. Subrogation

If a Contracting Party or its Agency makes a payment to sett own investor under a guarantee given in respect of an investment made in the territory of another Contracting Party, the latter Contracting Party shall recognize the grant to the first Contracting Party of all the rights and demands of the investor to be indemnified, and shall recognize that the same Contracting Party or appointed agency is empowered to exercise such rights and enforce such demands by virtue of the subrogation to the same extent as the original investor.

Article 10. Application of other Clauses

1. If the legislation of any Contracting Party or other obligations arising from international law, currently existing or to be established between the Contracting Parties in addition to this Agreement, contain the general or specific rules granting more favorable treatment to investors' investments and returns, they shall prevail over this Agreement.

2. Each Contracting Party shall honor any commitment it has on the investments of investors of the other Contracting Party.

Article 11. Scope of Application of the Agreement

1. This Agreement shall apply to all investments of the Contracting Parties made after its entry into force.

2. This Agreement shall not apply to dbputations existing prior to its entry into force.

Article 12. Final Provisions

1. The Contracting Parties shall promptly notify each other of the completion of the constitutional requirements for the entry into force of this Agreement. The Agreement shall enter into force on the day following the date of receipt of the last notification.

2. This Agreement shall be valid for an initial period of ten (10) years, and shall remain in force after this period if neither Contracting Party denounces it in writing twelve months in advance.

3. This Agreement may be amended by negotiation between the Contracting Parties and by exchange of notes.

4. With respect to investments approved and/or made prior to the date of notification of the effective termination of this Agreement, the provisions of Articles 1 to 11 shall remain in force in respect of such investment for a further period of ten years from the date of notification or such longer period as may be stipulated or agreed in the contract or in the exchange of notes, as established or agreed in the contract or approval granted to the investor.

Done at Cairo, this 14th day of December 1998, in two originals, in the Portuguese, English and Arabic languages, both texts being equally authentic.

For the Government of the Republic of Mozambique,

Dr. Leonardo Santos Simão

Minister of Foreign Affairs and Cooperation

For the Government of the Arab Republic of Egypt

Amre Moussa

Minister of Foreign Affairs