

No. 45783

**South Africa
and
Mozambique**

Agreement between the Government of the Republic of Mozambique and the Government of the Republic of South Africa in respect of cooperation and mutual assistance in the field of crime combating. Cape Town, 28 February 1995

Entry into force: *28 February 1995 by signature, in accordance with article 12*

Authentic texts: *English and Portuguese*

Registration with the Secretariat of the United Nations: *South Africa, 2 February 2009*

**Afrique du Sud
et
Mozambique**

Accord entre le Gouvernement de la République du Mozambique et le Gouvernement de la République sud-africaine relatif à la coopération et à l'assistance mutuelle en matière de lutte contre la criminalité. Le Cap, 28 février 1995

Entrée en vigueur : *28 février 1995 par signature, conformément à l'article 12*

Textes authentiques : *anglais et portugais*

Enregistrement auprès du Secrétariat des Nations Unies : *Afrique du Sud, 2 février 2009*

[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT BETWEEN

**THE GOVERNMENT
OF THE REPUBLIC OF MOZAMBIQUE**

AND

**THE GOVERNMENT
OF THE REPUBLIC OF SOUTH AFRICA**

**IN RESPECT OF CO-OPERATION AND MUTUAL ASSISTANCE
IN THE FIELD OF CRIME COMBATING
PREAMBLE**

- WHEREAS** the President of the Republic of South Africa and the President of the Republic of Mozambique have entered into a general agreement for co-operation between the two Governments.
- AND WHEREAS** the supremacy of the principle of non-interference in the internal affairs of each state and the upholding of their laws are recognised;
- AND WHEREAS** the Government of the Republic of South Africa and the Government of the Republic of Mozambique (hereinafter referred to as "The Parties") acknowledge the cordial relations which exist between them and their peoples;

AND WHEREAS the President of the Republic of South Africa and the President of the Republic of Mozambique are to sign the agreement of co-operation and mutual assistance in terms of their respective laws;

AND WHEREAS the Parties are mutually desirous of concluding such an agreement in order to contribute towards peace, stability, security, prosperity and the combating of crime;

NOW THEREFORE, the Parties hereby agree as follows -

ARTICLE 1

INTERPRETATION

1.1 In this Agreement, unless the context otherwise indicates -

- (a) "extra-territorial area" in relation to -
 - (i) (aa) the Republic of South Africa, means the territory of the Republic of Mozambique, including the territorial waters of that Republic;
 - (bb) the Republic of Mozambique, means the territory of South Africa, including the territorial waters of that Republic;
 - (ii) any police official of any such Police Force/Service, means the territorial area including the territorial waters, in which the other such Police Service has jurisdiction;
- (b) "hosting State", "hosting Police Force/Service" or "hosting police official", in relation to any act or conduct, or any other matter, means the State, Police Service or official, as the case may be, in the territory of which such act or conduct takes place or is to take place, or such matter is relevant or to be attended to, or which or who may legitimately, without reference to this

Agreement, operate in connection with any such act, conduct or matter in such territory, as the case may be;

- (c) "Ministers" mean the Minister of Safety and Security of the Republic of South Africa and the Minister of Interior of the Republic of Mozambique;
- (d) "Mozambique" means the Republic of Mozambique;
- (e) "Party" includes an acceding Party contemplated in Article 11;
- (f) "police official", in relation to any Party or its Police Service, means an official who is a member of the Police Service of such Party, or of such Police Service, as the case may be;
- (g) "South Africa" means the Republic of South Africa.

ARTICLE 2

LEGAL PROVISIONS

- 2.1 This Agreement shall in no way be construed as derogating from any provision of -
- (a) the laws of the respective Parties regarding extradition;
 - (b) any Extradition Agreement which is in force or may be entered into between the Parties; and
 - (c) the Co-operation Agreement entered into between the Government of the Republic of South Africa and the Government of the Republic of Mozambique on 20 July 1994.

ARTICLE 3
RIGHT OF ENTRY OF POLICE OFFICIALS

- 3.1 In the circumstances set out in Article 4, and subject to the conditions set out in Article 5, any police official shall, for the purposes set out in this Agreement, be allowed to enter into, and to be present in, or to travel through or across an extra-territorial area whenever necessary, provided that such right shall at no time be exercised in conflict with the laws of the relevant extra-territorial area.
- 3.2 The Ministers shall consult with each other and advise their respective Governments as to the legislative or administrative steps that may be necessary for the implementation of the provisions of this Agreement and to remove any legal obstacles or impediments that may be found to exist in the execution of the provisions of this Agreement.
- 3.3 The Ministers shall advise their respective Governments as to any other action which may be necessary to ensure that the performance of police functions by any police official in an extra-territorial area, is lawful in every respect.
- 3.4 Any entry by a police official into an extra-territorial area in terms of this Agreement will be subject to any applicable law pertaining to any such entry.

ARTICLE 4
CIRCUMSTANCES UNDER WHICH RIGHT OF ENTRY MAY BE EXERCISED

- 4.1 The entry of any police official into an extra-territorial area may be allowed -
- (a) where such entry is necessary for the purpose of any police investigation or for the seizure of exhibits relating to an offence or suspected offence committed in or in respect of the territorial area or State of such police official;