

No. 50794

**United States of America
and
Mozambique**

**Investment Incentive Agreement between the Government of the United States of America
and the Government of the Republic of Mozambique. Maputo, 23 September 1999**

Entry into force: *23 September 1999 by signature, in accordance with article 5*

Authentic texts: *English and Portuguese*

Registration with the Secretariat of the United Nations: *United States of America, 22 May
2013*

**États-Unis d'Amérique
et
Mozambique**

**Accord de promotion des investissements entre le Gouvernement des États-Unis d'Amérique
et le Gouvernement de la République du Mozambique. Maputo, 23 septembre 1999**

Entrée en vigueur : *23 septembre 1999 par signature, conformément à l'article 5*

Textes authentiques : *anglais et portugais*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *États-Unis
d'Amérique, 22 mai 2013*

[ENGLISH TEXT – TEXTE ANGLAIS]

INVESTMENT INCENTIVE AGREEMENT

BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND

THE GOVERNMENT OF THE REPUBLIC OF MOZAMBIQUE

**THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE
GOVERNMENT OF THE REPUBLIC OF MOZAMBIQUE;**

AFFIRMING their common desire to encourage economic activities in Mozambique that promote the development of the economic resources and productive capacities of the Republic of Mozambique; and

RECOGNIZING that this objective can be promoted through investment support provided by the Overseas Private Investment Corporation ("OPIC"), a development institution and an agency of the United States of America, in the form of investment insurance, coinsurance and reinsurance, investments and guaranties;

HAVE AGREED as follows:

ARTICLE 1

As used in this Agreement, the following terms have the meanings herein provided. The term "Investment Support" refers to any debt or equity investment, any investment guaranty and any investment insurance, reinsurance or coinsurance which is provided by the Issuer (or, in the case of coinsurance, is provided by the Issuer and commercial insurance companies ("Coinsurers") under coinsurance arrangements under which the Issuer acts both for itself and for such Coinsurers) in connection with a project in the territory of Mozambique. The term "Issuer" refers to OPIC and any

successor agency of the United States of America, and any agent of either. The term "Taxes" means all present and future taxes, levies, imposts, stamps, duties and charges, whether direct or indirect, imposed by the Government of the Republic of Mozambique and all liabilities with respect thereto.

ARTICLE 2

The two Governments confirm their understanding that the Issuer's activities are governmental in nature and therefore:

(a) The Issuer shall not be subject to regulation under the laws of Mozambique applicable to insurance or financial organizations, but, in the provision of Investment Support, shall be afforded all rights and have access to all remedies of any such entity, whether domestic, foreign or multilateral.

(b) The Issuer, all operations and activities undertaken by the Issuer in connection with any Investment Support, and all payments, whether of interest, principal, fees, dividends, premiums or the proceeds from the liquidation of assets or of any other nature, that are made, received or guaranteed by the Issuer in connection with any Investment Support shall be exempt from Taxes, whether imposed directly on the Issuer or payable in the first instance by others. Neither projects receiving Investment Support nor investors in such projects shall be exempt from Taxes by operation of this Article, provided, however, that any Investment Support shall be accorded tax treatment no less favorable than that accorded to the investment support of any other national or multilateral development institution which operates in Mozambique. The Issuer shall not be subject to Taxes in connection with any transfer, succession or other acquisition which occurs pursuant to paragraph (c) of this Article or Article 3(a) hereof, but obligations for Taxes previously accrued and unpaid with respect to interests received by the Issuer shall not be extinguished as a result of such transfer, succession or other acquisition.

(c) If the Issuer, alone or with a Coinsurer, makes a payment to any person or entity, or exercises its rights as a creditor or subrogee in connection with any Investment Support, the Government of the Republic of Mozambique shall recognize the transfer to, or acquisition by, the Issuer and any Coinsurer of any cash, accounts, credits, instruments or other assets in

connection with such payment or the exercise of such rights, as well as the succession of the Issuer and any Coinsurer to any right, title, claim, privilege or cause of action existing, or which may arise, in connection therewith.

(d) With respect to any interests transferred to the Issuer or a Coinsurer or any interests to which the Issuer or a Coinsurer succeeds under this Article, the Issuer or a Coinsurer shall assert no greater rights than those of the person or entity from whom such interests were received, provided that nothing in this Agreement shall limit the right of the Government of the United States of America to assert a claim under international law in its sovereign capacity, as distinct from any rights it may have as the Issuer pursuant to paragraph (c) of this Article. No Coinsurer shall be entitled to the benefits of this Agreement unless it is acting through, or its interests have been assigned to, the Issuer.

ARTICLE 3

(a) Amounts in the currency of Mozambique, including cash, accounts, credits, instruments or otherwise, acquired by the Issuer (or by the Issuer and any Coinsurer) upon making a payment, or upon the exercise of its rights as a creditor, in connection with any Investment Support for a project in Mozambique, shall be accorded treatment in the territory of Mozambique no less favorable as to use and conversion than the treatment to which such funds would have been entitled in the hands of the person or entity from which such amounts were acquired.

(b) Such currency and credits may be transferred to any person or entity and upon such transfer shall be freely available for use by such person or entity in the territory of Mozambique in accordance with its laws.

ARTICLE 4

(a) Any dispute between the Government of the United States of America and the Government of Republic of Mozambique regarding the interpretation of this Agreement or which, in the opinion of either party hereto, presents a question of international law arising out of any project or activity for which Investment Support has been provided shall be resolved, insofar as possible, through negotiations between the two Governments. If, six months following a request for negotiations hereunder, the two

Governments have not resolved the dispute, the dispute, including the question of whether such dispute presents a question of international law, shall be submitted, at the initiative of either Government, to an arbitral tribunal for resolution in accordance with paragraph (b) of this Article.

(b) The arbitral tribunal referred to in paragraph (a) of this Article shall be established and shall function as follows:

(i) Each Government shall appoint one arbitrator. These two arbitrators shall by agreement designate a president of the tribunal who shall be a citizen of a third state and whose appointment shall be subject to acceptance by the two Governments. The arbitrators shall be appointed within three months, and the president within six months, of the date of receipt of either Government's request for arbitration. If the appointments are not made within the foregoing time limits, either Government may, in the absence of any other agreement, request the Secretary-General of the International Centre for the Settlement of Investment Disputes to make the necessary appointment or appointments. Both Governments hereby agree to accept such appointment or appointments.

(ii) Decisions of the arbitral tribunal shall be made by majority vote and shall be based on the applicable principles and rules of international law. Its decision shall be final and binding.

(iii) During the proceedings, each Government shall bear the expense of its arbitrator and of its representation in the proceedings before the tribunal, whereas the expenses of the president and other costs of the arbitration shall be paid in equal parts by the two Governments.

(iv) In all other matters, the arbitral tribunal shall regulate its own procedures.

ARTICLE 5

(a) This Agreement shall enter into force on the date of signature.