

# PORTS & TERMINALS

## Mozambique



# Ports & Terminals

Consulting editors

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Quick reference guide enabling side-by-side comparison of local insights, including into key ports; reform and port models; state development policy; green ports; legislative framework and regulation; public procurement and PPP; port development, construction and operation; corporate, finance, competition and dispute considerations; and recent trends.

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### Mozambique



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## GENERAL

### Key ports

Which are the key ports in your jurisdiction and what sort of facilities do they comprise? What is the primary purpose of the ports?

The key ports in Mozambique are:

- the port of Maputo (southwestern Mozambique);
- the port of Beira (central Mozambique); and
- the port of Nacala (northern Mozambique).

There are other smaller ports in the provinces of Gaza (the port of Xai-Xai) and Inhambane, and in the cities of Quelimane and Pemba.

Despite being small, the port of Pemba gained more relevance in recent years because it became the fourth port to receive petroleum products imported for local consumption. This relevance is likely to increase with the implementation of the Rovuma Basin gas projects.

The port of Maputo is the biggest Mozambican port in terms of annual volumes of cargo, and saw its handling capacity increasing recently with the acquisition of two new mobile cranes. The port is composed of two different areas: the Maputo Cargo Terminals – also called the commercial port – and the Matola Bulk Terminals. The Maputo Cargo Terminals cover cabotage, general cargo, fruit, liquids (storage in tanks), sugar, grain, containers, cars, steel, iron and molasses terminals. The Matola Bulk Terminals cover the coal, petroleum products, cereals and aluminium terminals.

With the recent amendment to the terms of the concession of the Port of Maputo, through Decree No. 11/2022 of 4 April of 2022, the concession area of the port has increased by 137.76 hectares, from the current 140.63 hectares to 278.39 hectares. These additional concession areas refer, among others, to:

- incorporation of the Cabotage Terminal in the Port of Maputo concession area;
- expansion of the multipurpose terminal area;
- construction of an intermodal terminal and expansion of the rail diversion;
- expansion of the Matola Coal Terminal; and
- construction of new railway lines, guardrails and a new road.

The port of Nacala is the largest deep-water natural harbour on the East African coast and allows access to the northern regions of Mozambique. It currently has a general cargo terminal, eight warehouses, container terminal and liquid bulk terminal (the latter connected to the fuel depots of BP-Mozambique and Petromoc. The port of Nacala is also connected by rail to the Tete province to allow the export of coal.

The port of Beira, which is the second-largest port in terms of its annual volume of cargo and recently considered the most efficient in Southern Africa recently, according to the Container Terminals Performance Index of the World Bank, is undergoing an upgrade that will lead to an increase of handling capacity from the current 4 million tons per year of general cargo and 350,000 twenty foot equivalent units (TEUs) of containers to 5 million tons and 700,000 TEUs respectively. The upgrades include the recently installed modern port cargo handling equipment and a computer system.

The ports indicated above stand out in the Southern African Development Community region as strategic infrastructures on which hinterland countries rely for a significant part of their imports and exports.

### Reform and port models

Describe any port reform that has been undertaken over the past few decades and the principal port model or models in your jurisdiction.

The management of the ports in Mozambique was carried out by the former National Directorate of Ports and Railways until 1989, the year in which that role was taken on by the state-owned company Empresa Nacional de Portos e Caminhos de Ferro de Moçambique (CFM), created by Decree No. 6/89 of 11 May 1989.

With the launch of port concessions by the state – namely in the ports of Maputo, Beira and Quelimane – CFM was replaced by the relevant concessionaires as the port operator in each of those ports and the landlord model, based on public–private partnerships under a concession regime, became the principal port model in Mozambique.

The port of Pemba and the fuel terminals in all ports of the country are directly managed by CFM.

Law stated - 16 August 2023

### State development policy

Is there an overall state policy for the development of ports in your jurisdiction?

Mozambique does not have an overall state policy for the development of ports. However, Resolution No. 5/96 of 2 April 1996, which approved the Mozambican Transport Policy, introduced a chapter on port policy. This chapter established, among others, the following objectives regarding ports in Mozambique:

- increasing the operational efficiency of the ports;
- encouraging the modernisation of management techniques, ranging from operational to human resources matters;
- encouraging the participation of private capital in the creation of new infrastructure, port operations and port services, by means of management contracts, or full or partial concessions, in partnership with the state-owned port operator (joint venture); and
- fostering exploration of specialist terminals by means of full or partial concessions to private parties (joint venture).

Law stated - 16 August 2023

### Green ports

What 'green port' principles are proposed or required for ports and terminals in your jurisdiction?

The Regulation for the Prevention of Pollution and Protection of the Marine and Coastal Environment was approved in Mozambique by Decree No. 45/2006 of 30 November 2006.

This regulation establishes the main principle that all ports must have adequate means for the collection and treatment of various types of waste to combat pollution.

As a result of this principle, port operators must have a manual of internal procedures for the management of pollution risks, as well as for the management of the various types of waste generated or derived from the handling and storage activities of oils and harmful substances. Port operators must also have individual contingency plans to combat pollution from oil and harmful substances.

## LEGISLATIVE FRAMEWORK AND REGULATION

### Development framework

Is there a legislative framework for port development or operations in your jurisdiction?

There is no specific legal framework for port development or operations in Mozambique. However, this activity is regulated by the Transport Policy and the Public–Private Partnership Law and its associated regulation, as all concessions of ports and terminals awarded to private entities are under the public–private partnership (PPP) regime.

*Law stated - 16 August 2023*

### Regulatory authorities

Is there a regulatory authority for each port or for all ports in your jurisdiction?

The regulation of all ports is the responsibility of a single entity. Until October 2021, this role was fulfilled by the Ministry of Transport and Communications. In August 2021, the Government, through Decree No. 84/2021 of 18 October 2021 (the Railway and Ports Authority Law), established the Mozambique Rail and Port Institute (IFEPOM).

*Law stated - 16 August 2023*

What are the key competences and powers of the port regulatory authority in your jurisdiction?

The port regulatory authority is generally responsible for the supervision, regulation, oversight, and inspection of the activities of the port system, including:

- monitoring the performance of concessionaires and port operators as well as ensuring compliance of their activities with the law and with the respective concession agreements;
- monitoring the implementation and enforcement of port facility security measures;
- certifying the compliance of national port facilities with the standards of the ISPS Code as well as other applicable legislation;
- formulating policy proposals for development and management of national ports;
- licensing and inspecting port operations and infrastructure;
- licensing and supervising the construction of port infrastructure;
- granting licenses to duly constituted port operators and monitoring the certification of their equipment;
- promoting free competition, preventing and take necessary measures against anti-competitive practices and abuses of dominant position; and
- regulating the opening or closing of ports and port terminals in coordination with other entities.

*Law stated - 16 August 2023*

### Harbourmasters

How is a harbourmaster for a port in your jurisdiction appointed?

The harbourmaster is a naval officer appointed by order of the Minister of Transport and Communications.



**Competition**

Are ports in your jurisdiction subject to specific national competition rules?

The ports are subject to general competition rules established in Law No. 10/2013 of 11 April 2013 – the Legal Framework for Competition. Besides, with the approval of the Railway and Ports Authority Law, IFEPOM became competent to promote free competition, prevent and take the necessary measures against anti-competitive practices and abuse of dominant position.

Law stated - 16 August 2023

**Tariffs**

Are there regulations in relation to the tariffs that are imposed on ports and terminals users in your jurisdictions and how are tariffs collected?

For ports under a concession regime, the concessionaire (private operator) is the entity responsible for establishing the tariff regime to be applied to the provision of port services.

Empresa Nacional de Portos e Caminhos de Ferro de Moçambique (CFM) also has a Port Tariff Book, which is a document approved by its board of directors that applies to the ports or terminals that are under the direct management of CFM. Private operators generally use the Port Tariff Book as reference for setting up the tariffs in the ports operated by them.

Law stated - 16 August 2023

Are there restrictions relating to the currency applied to the tariffs or to any fees that are payable by a port operator to the government or port authority? Are any specific currency conditions imposed on port operators more generally?

Tariffs or fees payable to the government are always established and payable in Mozambican metical. There are no restrictions on the currency that may apply to the tariffs or to any fees payable to any other entities – notably, to port operators; however, local invoices (issued to Mozambican entities) must be in meticaís. Exchange rates are based on agreements by the parties involved but, in general, can be determined by reference to the exchange rate of a specific commercial bank on the payment date.

Law stated - 16 August 2023

**Public service obligations**

Does the state have any public service obligations in relation to port access or services? Can it satisfy these obligations through a contract with a private party?

Port areas in Mozambique are classified by law as partial protection zones and are considered part of the public domain. Therefore, all citizens must be given free access to port areas.

The state transfers certain public service obligations to private operators through concession contracts (for port terminals) and licences (other port services).

**Joint ventures**

Can a state entity enter into a joint venture with a port operator for the development or operation of a port in your jurisdiction? Is the state's stake in the venture subject to any percentage threshold?

The Mozambican Transport Policy encourages joint ventures between the state entity and private parties (public-private partnerships (PPPs)) for the development and operation of ports in Mozambique. The Public-Private Partnerships, Large-Scale Projects and Business Concessions Law (the PPP Law) will apply. Pursuant to the PPP Law, if a state entity enters into a joint venture with a private entity, the state entity must have a stake in the share capital of the port operator that shall be not less than 5 per cent and more than 20 per cent of the total investment.

Law stated - 16 August 2023

**Foreign participation**

Are there restrictions on foreign participation in port projects?

There is no restriction on the participation of foreigners in port or terminal projects. However, participation may be reserved for sale via the stock market in favour of economic inclusion (preferably of Mozambican natural persons) in commercial market terms. The capital of the enterprise or in capital of the consortium, whether or not involved in foreign investment, should be guaranteed through the Mozambican state or other public entity in a percentage of not less than 5 per cent nor more than 20 per cent of the capital.

Law stated - 16 August 2023

**PUBLIC PROCUREMENT AND PPP****Legislation**

Is the legislation governing procurement and PPP general or specific?

The legislation governing procurement and PPP is general.

Procurement is governed by Decree No. 79/2022 of 30 December 2022, which approves the Regulation of Contracting of Public Works, Supply of Goods and Provision of Services to the State (the Public Procurement Regulation). This new decree repealed Decree 5/2016 of 8 March 2016. This piece of legislation sets out both the procedural rules applicable to public tenders and the substantive regime governing the execution of public contracts, including specific liability rules.

In turn, PPPs are governed by Law No. 15/2011 of 10 August 2011, the Public-Private Partnerships, Large-Scale Projects and Business Concessions Law (the PPP Law) and Decree No. 16/2012 of 4 June 2012, the Regulation of the Public-Private Partnerships, Large-Scale Projects and Business Concessions Law (the PPP Regulation). The PPP Law and the PPP Regulation establish:

- the guidelines for entering into, implementing and monitoring PPP;
- the principles applicable to the institutional framework, process and procedure;
- specific provisions for each type of project, guarantees and incentives;
- benefit sharing; and

- irregularities and their administrative treatment.

*Law stated - 16 August 2023*

### **Proposal consideration**

May the government or relevant port authority consider proposals for port privatisation/PPP other than as part of a formal tender?

There is room for unsolicited proposals for port PPPs, without prejudice to the application of the procedure established in the Public Procurement Regulation for the award of concessions. Privatisation of the ports is currently not permitted under applicable legislation in Mozambique.

*Law stated - 16 August 2023*

### **Joint venture and concession criteria**

What criteria are considered when awarding port concessions and port joint venture agreements?

The key consideration for the award of port or terminal concessions is the utmost satisfaction of public interest together with other, more technical criteria that may be defined in the public tender.

The Public Procurement Regulation establishes the following criteria for the award of public services:

- higher price offer for the grant;
- lower tariff or price to be charged from users;
- better quality of services or goods made available to the public; and
- better service and demand satisfaction.

*Law stated - 16 August 2023*

### **Model agreement**

Is there a model PPP agreement that is used for port projects? To what extent can the public body deviate from its terms?

The concession contract is the common contractual structure for port projects. There is no model concession contract that the public body is compelled to use for that purpose. However, the concession contract form must be included in the tender documents and there is limited room for deviating from it thereafter.

*Law stated - 16 August 2023*

### **Approval**

What government approvals are required for the implementation of a port PPP agreement in your jurisdiction? Must any specific law be passed in your jurisdiction for this?

Following the public tender, the government issues a decree with the terms of the concession, therefore establishing the legal basis for the concession to the private operator of the construction, operation, maintenance or management of the port or terminal as a PPP. The terms of the concession are individual and specific to each port or terminal.

## Projects

### On what basis are port projects in your jurisdiction typically implemented?

Most port concessions awarded to date were brownfield projects. Indeed, given that the ports were designed and built by the government or port authority in the colonial period, the activities transferred to the private operator were limited to the operation and management of the port or terminal.

The construction of new terminals by the private operator was included in more recent concessions, including the concessions awarded in 2018 for the liquefied natural gas and materials off-loading terminals in Afungi, Palma in connection with the Rovuma Basin gas projects.

Accordingly, the most-used PPP models for ports and terminals in Mozambique are rehabilitate–operate–own–transfer and build–own–operate–transfer or design–build–own–operate–transfer, or the parties may opt for a combination of the existing models as agreed under the terms of the concession contract.

*Law stated - 16 August 2023*

## Term length

### Is there a minimum or maximum term for port PPPs in your jurisdiction? What is the average term?

The law establishes a maximum period of 30 years for greenfield concessions and 20 years for concessions where the infrastructure is already built but requires rehabilitation or expansion. For other types of PPP contracts, the law does not establish a minimum term and the duration is determined by taking into account the project economic and financial attractiveness, and the time required for its implementation and for the recovery of the invested capital.

*Law stated - 16 August 2023*

### On what basis can the term be extended?

Concession contracts for greenfield projects may be extended for a maximum period of 10 years for large projects and where the project life cycle and technological or biological requirements of their implementation or process of their implementation so require.

The government may also, by means of an addendum to the contract, extend its duration for the time required for the compensation of:

- any additional investments made at the express request of the government and agreed in an addendum to the contract approved by the competent entity;
- the price or tariff policy fixed by the government, below the cost price and the agreed profitability; and
- mitigation of the effects of any force majeure event.

*Law stated - 16 August 2023*

## Fee structures

What fee structures are used in your jurisdiction? Are they subject to indexation?

The fee structure is a combination of fixed and variable rates (award and concession), and revenue shares.

The PPP Law foresees the payment of an award or subscription bonus that must be between 0.5 per cent and 5 per cent of the value of the concession assets. In addition, it provides for a concession fee payable monthly, quarterly, semi-annually or annually as agreed between the parties with an element subject to a variable rate from 2 per cent to 10 per cent of revenue and another to a fixed rate from 2 per cent to 5 per cent of the value of the concession assets.

*Law stated - 16 August 2023*

## Exclusivity

Does the government provide guarantees in relation to port PPPs or grant the port operator exclusivity?

Under the PPP Law, the government may, in the case of a strategic project or of a special socio-economic interest for the country that is not financially viable on its own:

- contribute with financing or provide a financial guarantee to the project;
- facilitate the access to guarantees for financing requested from multilateral or governmental institutions; and
- grant subsidies or compensation for the provision of its services at prices or tariffs fixed administratively below or at the tangent of its actual cost.

*Law stated - 16 August 2023*

## Other incentives

Does the government or the port authority provide any other incentives to investors in ports?

The government may grant some tax benefits and incentives under Law No. 8/2023 of 9 June 2023 (the Investment Law) in conjunction with Decree No. 20/2021 of 13 April 2021. There is no specific regime applicable to the port industry, unlike in the case of investments in the oil and gas industry.

Notably, the Investment Law and its regulation foresee benefits such as allowance for the repatriation of profits abroad if the capital invested is higher than the 7.5 million meticaís exemption on imports of goods in Class K of the Customs Tariff and permission to hire a certain number of foreign employees for the project. Projects implemented in special economic zones also have benefits such as exemptions in the importation and exportation of goods produced in those areas.

To be eligible for these benefits, private entities must file an application with the Agency for the Promotion of Investments and Exports, and the project must be approved by this entity.

*Law stated - 16 August 2023*

## PORT DEVELOPMENT AND CONSTRUCTION

## Approval

What government approvals are required for a port operator to commence construction at the relevant port? How long does it typically take to obtain approvals?

Ports constitute partial protection zones and, therefore, the government must issue a special licence for their construction or operation. This licence is given to the port operator with the concession contract, attached to the terms of the concession.

The time for obtaining the relevant licences for the commencement of a port construction depends on the specifics of the case. An environmental licence may also be needed. Where the private operator assumes the construction or expansion of a new terminal, it shall be subject to an environmental impact assessment, which may take up to 45 business days for government approval for the activities in Category A of the assessment.

*Law stated - 16 August 2023*

## Port construction

Does the government or relevant port authority typically undertake any part of the port construction?

Most ports in Mozambique were built in the colonial period and only recently have new terminals been built.

The construction of new terminals may, from a legal point of view, be carried out either by the port authority or the private operator, depending on what is agreed in the concession contract. It is, however, usually the private operator who is responsible for the entire construction, for example, as was the case at the port and logistics terminals of Pemba and Palma in the province of Cabo Delgado, and in the coal terminal in the port of Beira (Pier 13) in the province of Sofala.

*Law stated - 16 August 2023*

Does the port operator have to adhere to any specific construction standards, and may it engage any contractor it wishes?

The construction standards are commonly agreed in the concession contract and the private operator is expected to use the required quality standards for the construction of the ports or terminals.

The port operator may engage any contractor it wishes unless the identity of or requirements applicable to the contractor are set out in the concession contract.

*Law stated - 16 August 2023*

What remedies are available for delays and defects in the construction of the port?

In the event of delays or defects in construction, the private operator may be subject to penalties under the concession contract. In the case of a material breach that affects the objectives and purposes of the project that is not remedied by the port operator, the port authority will be entitled to terminate the contract.

*Law stated - 16 August 2023*

## PORT OPERATIONS

### Approval

What government approvals are required in your jurisdiction for a port operator to commence operations following construction? How long does it typically take to obtain approvals?

No specific approvals are required for the port operator to commence operations following construction, as the right to operate a terminal is given by the concession contract and the terms of the concession.

*Law stated - 16 August 2023*

### Typical services

What services does a port operator and what services does the port authority typically provide in your jurisdiction? Do the port authorities typically charge the port operator for any services?

The services typically provided by the port operators are pilotage, towing, mooring and unblocking, stowage on board ships and at berth, handling of cargo, storage, fuelling and water and electricity supply to ships, among others. The port authority may, unless the concession contract allocates those services to the private port operator, provide the following services:

- ensuring the safety of the port area;
- inspections of vessels;
- inspections of goods and equipment in the port area; and
- the creation of public interest easements.

*Law stated - 16 August 2023*

### Access to hinterland

Does the government or relevant port authority typically give any commitments in relation to access to the hinterland? To what extent does it require the operator to finance development of access routes or interconnections?

Ensuring access to the hinterland (rail, road, etc) is an obligation of the government and the port authority have no responsibilities in that regard. The operator only has obligations to perform works on land or water in the area of the concession, namely:

- construction works;
- maintenance works;
- dredging; and
- provision of any other services, activities or works that have been duly authorised for achieving the purpose set out in the concession contract.

*Law stated - 16 August 2023*

## Suspension

How do port authorities in your jurisdiction oversee terminal operations and in what circumstances may a port authority require the operator to suspend them?

The powers to inspect port operations are established in the general legislation and in the concession contract.

The causes for suspending or terminating those operations must be specified in the concession contract. The law lists some causes that can lead to suspension or termination, namely:

- material breach of contract or the implementation of its object;
- abandonment of the performance of the activity agreed in the contract;
- transfer to a third party of the rights and obligations of the port operator or the operation of another business;
- failure to pay fees or other payments established in the contract; and
- default in the provision of the agreed services.

Before suspending or terminating the port operations, the port authority must notify the port operator in writing that the port operator must comply with its obligations and remedy any outstanding default, and that the port operator must compensate the port authority for any damages resulting from the breach of contract within a period not exceeding 120 days.

If the port operator fails to comply with its obligations or repair the damages caused by its non-compliance by the deadline indicated, the port authority may, unless another procedure has been foreseen in the concession contract, terminate the contract immediately by written communication to the port operator.

*Law stated - 16 August 2023*

## Port access and control

In what circumstances may the port authorities in your jurisdiction access the port area or take over port operations?

The port authority may take over the port operations if protection of public interest, public order and public safety so justifies, despite there being no default or responsibility of the port operator. In this case, the operator is entitled to receive compensation considering the remaining time of the contract for the recovery of investments if another principle has not been stipulated in the contract.

*Law stated - 16 August 2023*

## Failure to operate and maintain

What remedies are available to the port authority or government against a port operator that fails to operate and maintain the port as agreed?

The port operator may be subject to penalties in cases of failure to operate and maintain the port as agreed and, if such failure is material and not remedied or capable of being remedied, the port authority has the right to terminate the contract. In any case, the operator is subject to the general rules of civil liability and, therefore, may be responsible for all damages incurred.



**Transferrable assets**

What assets must port operators transfer to the relevant port authority on termination of a concession? Must port authorities pay any compensation for transferred assets?

The concession contract can foresee the terms under which the reversion and transfer of assets will take place.

In accordance with applicable law, after termination of the concession, the operator must transfer all the assets necessary to operate and maintain the terminal to the port authority, including those that it received at the beginning of the contract and those bought or construed by the concessionaire. These assets shall revert free of charge and in good working condition, and the operator has no claim to compensation or retention unless otherwise stated in the contract. The operator is, however, entitled to compensation or reimbursement for investments previously agreed upon and realised but not yet amortised.

Law stated - 16 August 2023

**MISCELLANEOUS****Special purpose vehicles**

Is a port operator that is to construct or operate a port in your jurisdiction permitted (or required) to do so via a special purpose vehicle (SPV)? Must it be incorporated in your jurisdiction?

The port operator shall be in the form of a commercial company, in accordance with commercial law applicable in Mozambique. The purpose of the company must clearly be the implementation of the relevant project and the duration of the company cannot be less than the period of validity of the concession contract. The new company must be incorporated in Mozambique, but the shareholders can be foreign entities or individuals.

Law stated - 16 August 2023

**Transferring ownership interests**

Are ownership interests in the port operator freely transferable?

Generally, the transfer of ownership interests is subject to prior authorisation from the port authority under the relevant concession contract and is not to be unreasonably denied.

Law stated - 16 August 2023

**Granting security**

Can the port operator grant security over its rights under the PPP agreement to its project financing banks? Does a port authority in your jurisdiction typically agree to enter into direct agreements with the project financing banks and, if so, what are the key terms?

The port operator may grant security over its rights under the public-private partnership (PPP) agreement to its financing banks, as the creation and enforcement of such security are often subject to the prior authorisation of the grantor. This also applies to the concession assets.

Under the laws of Mozambique, land cannot be privately owned and, accordingly, cannot be mortgaged. Buildings erected on land covered by a right to use and benefit from land (referred to locally as a DUAT) may be privately owned and granted mortgages, unless they are in the public domain. Assets that are in the public domain cannot be encumbered.

Mortgages and pledges are the most common security interests created under the laws of Mozambique, and their terms and formalities vary depending on the type of assets at stake. Assignments of receivables or of future credit rights by way of security are also commonly used quasi-security interests.

*Law stated - 16 August 2023*

## **Agreement variation and termination**

In what circumstances may agreements to construct or operate a port facility be varied or terminated?

The agreements to construct or operate a port facility have, as a rule, specific clauses relating to the modification of the contract and the terms under which the said modification is admissible. The modification of a contract is limited by law and can only occur by agreement between the contracting parties, or for correcting or adjusting situations that arise out of events or factors unrelated to the will and capacity (professional or managerial) of either contracting party, and for the purpose of mitigating the effects of force majeure events.

Termination of the contract can occur in the event of a severe breach or for reasons of public interest. It may also occur in the following cases:

- the abandonment of the performance of the contract or implementation of its object or its unjustified suspension;
- the transmission by the contractor of his or her contractual position, or the conclusion and operation of another business for the same purposes as the current contract, either temporarily or definitively, without the written approval or consent of the contractor and the entities responsible for the sectoral and financial supervision;
- non-payment of fees or other compensation due under the contract; and
- non-compliance in the provision of public service under the contractually agreed terms.

*Law stated - 16 August 2023*

## **Contractual breach**

What remedies are available to a government or port authority for contractual breach by a port operator?

One of the mandatory clauses in a PPP contract is the indication of applicable sanctions and the manner in which they may be applied in cases of non-compliance or other breaches of contract. Moreover, a serious breach of contract that affects the aims and purposes of the project may lead to termination of the contract.

*Law stated - 16 August 2023*

## **Governing law**

Must all port PPP agreements be governed by the laws of your jurisdiction?

In accordance with Law No. 15/2011 of 10 August 2011 – the Public–Private Partnerships, Large-Scale Projects and

Business Concessions Law (PPP Law) – the contract for the concession of ports or terminals should be governed by Mozambican law. Also, construction contracts entered into in Mozambique must be governed by Mozambican law. Those construction contracts do not need to be executed in Portuguese, although a Portuguese version may be required for registration purposes and other acts before Mozambican public entities.

*Law stated - 16 August 2023*

## Disputes

How are disputes between the government or port authority and the port operator customarily settled?

Disputes are resolved under the terms defined by the parties in the concession contract. Usually, the parties privilege conflict resolution through mediation and arbitration.

Mozambique has a regime of alternative means of conflict resolution, established by Law No. 11/99 of 8 July 1999 – the Law of Arbitration, Conciliation and Mediation. However, we have not seen any disputes referred to arbitration to date.

The parties can also resolve disputes in the general courts.

*Law stated - 16 August 2023*

## UPDATE AND TRENDS

### Key developments of the past year

Are there any other current developments or emerging trends that should be noted?

The establishment of the Mozambique Rail and Port Institute (IFEPOM) in 2021 is one major developments in the sector. The Organic Statute of IFEPOM was approved in September 2022, through Resolution No. 18/2022 of 30 September 2022, and the Chairman of the Board of Directors appointed in December 2022, through Resolution No. 50/2022 of 6 December 2022.

In August 2022, the government unveiled the Economic Acceleration Measures Package, which included a commitment to enhance the competitiveness of various logistical corridors (among others). The goal was to facilitate the seamless movement of people and the flow of goods destined for or passing through Mozambique. As part of this initiative, the government pledged to implement incentives for transshipment activities at major ports and to bolster the competitiveness of tariffs utilised within ports and logistic routes.

The promised Ports Law announced in June 2019 by the former Minister of Transport and Communications Carlos Mesquita, which remains a major development to be introduced to the sector, is still in the making. The law is aimed at:

- increasing the operational efficiency of the national port system by attracting investment;
- removing obstacles that hamper the exploration of existing capacity; and
- encouraging the participation of the private sector by attracting investment in new infrastructure and port services, which will incentivise the creation and rehabilitation of secondary and tertiary ports in Mozambique.

Lastly, one of the main priorities under the government's 2020–2024 five-year programme, which was approved in 2020, is the prioritisation of the investment in the infrastructure sector, including ports. This will contribute to an increase in economic activity, job creation and promotion of national and regional integration.



## Jurisdictions

	<b>Angola</b>	SRS Legal
	<b>Brazil</b>	Kincaid   Mendes Vianna Advogados
	<b>Denmark</b>	Gorrissen Federspiel
	<b>India</b>	Phoenix Legal
	<b>Japan</b>	TMI Associates
	<b>Mozambique</b>	VdA
	<b>Netherlands</b>	Van Steenderen MainportLawyers
	<b>Nigeria</b>	Creed & Brooks
	<b>Paraguay</b>	Palacios Prono and Talavera Abogados
	<b>Portugal</b>	SRS Legal
	<b>South Korea</b>	DR & AJU LLC
	<b>Turkey</b>	Turunç
	<b>United Kingdom</b>	HFW
	<b>Venezuela</b>	Sabatino Pizzolante Maritime & Commercial Attorneys