

# **AGREEMENT ON THE MUTUAL PROMOTION AND PROTECTION OF INVESTMENTS BETWEEN THE GOVERNMENT OF THE REPUBLIC OF CHINA AND THE GOVERNMENT OF BURKINA FASO**

The Government of the Republic of China and the Government of Burkina Faso, hereinafter referred to as the "Contracting Parties"; aware of the crucial role that investment plays in the development of their respective countries;

Desiring to strengthen their economic cooperation through increased investment flows between the two countries;

Convinced that the reciprocal protection of investments provided for in an agreement is likely to stimulate private initiative and increase the prosperity of both countries;

Have agreed on the following:

## **Article 1. Definitions**

1. The term "Investments" means all kinds of assets invested in accordance with the laws and regulations in force in the territory in question, including (non-exhaustive list):

(a) Movable and immovable property and any other property rights and any related collateral, such as mortgages, pledge rights and securities;

(b) Company assets, shares, participations and bonds;

(c) Loans and all services under subject to certain commitments arising from a contract;

(d) Tangible and intangible property of a a commercial enterprise;

(e) Commercial concessions granted by law or under contract, including concessions for research, extraction or exploitation of resources natural;

(f) Intellectual property rights, such as copyright and property rights including, but not limited to, patents, technical processes, technical processes, patents and trademarks, labels, industrial designs, know-how and know-how. commercial reputation.

2. The word "Revenue" refers to the income resulting from an investment and, in particular, any profits, interest, dividends or royalties, this list being not exhaustive.

3. The term "Investors" means:

(a) Natural persons who are nationals of one of the Contracting Parties;

(b) Legal persons including companies, societies, trade associations or any other entity constituted or otherwise organized under the laws of the Contracting Parties.

4. The term "Territory" means the territory of each of the Contracting Parties, including its territorial waters and all maritime regions beyond the waters of the said Contracting Parties which, in accordance with international law, is designated as an area in which the Contracting Party may exercise its right sovereign or its jurisdiction.

## **Article 2. Investment Promotion**

Each Contracting Party may encourage, through its own promotion strategy, investment from the territory of the other Contracting Party to its own territory.

### **Article 3. National Treatment and the Most Favoured Nation Clause**

1. No Contracting Party shall submit, on its own territory, the nationals of the other Contracting Party to less favourable treatment than the one guaranteed to nationals of all countries other third country concerning management, the use, enjoyment or transfer of their investments.

2. Neither of the two Contracting Parties shall submit, on its territory, investments or income of nationals of the other Party to less favourable treatment than the one it grants to investments or income of nationals of any other State third party.

### **Article 4. Derogation**

If one of the Contracting Parties has granted a special treatment for investments from of a third country under the terms of agreements laying down measures to avoid double taxation, free trade areas, unions customs, common markets, unions economic or monetary and institutions similar, this Contracting Party is not obliged to grant such treatment to investors or investments of the other Contracting Party.

### **Article 5. Compensation**

When investments suffer loss due to war, insurrection, riot, riots, a state of siege or any other similar event in the territory of a Contracting Party, this Contracting Party shall provide investors with a treatment that is no less favourable than that of the that it grants to investors of its own nationals or to nationals of any other State concerning restitution, compensation, compensation and compensation or other arrangements.

### **Article 6. Expropriation**

Investments from the territory of a Contracting Party shall not be expropriated, nationalized, requisitioned or subjected any other measures of equivalent effect on the territory of the other Contracting Party, except for reasons of public or national interest, on a legal and non-discriminatory basis. In case of where it happened, an indemnity freely transferable between the two Contracting Parties would be quickly, appropriately and actually delivered.

The above provisions apply also to the revenues generated by the investments and profits from assets relating to such investments.

### **Article 7. Transfer of Investments and Revenues**

In accordance with its laws and regulations, each Contracting Party will allow investors to of the other Contracting Party to proceed immediately and freely to the transfer of all their investments and revenues in any which convertible currency, in particular with regard to:

1. The payment of compensation as stipulated in Articles 5 and 6 above;
2. The repayment of loans granted to terms of contracts between the nationals of a Contracting Party and nationals of the other Contracting Party;
3. The remuneration of nationals of the other Contracting Party authorised to work on its territory, in respect of a investment.

### **Article 8. Subrogation**

If a Contracting Party or its agency makes a payment to its own investors due to a guarantee that has been data for an investment made in the territory of the other Contracting Party, this the latter must recognize the transfer to the territory of the first Contracting Party of all rights and claims of the indemnified investors and recognize that the first Contracting Party or its agency is entitled to exercise the above rights mentioned and to assert its claims under subrogation, everything as said investors would have been.

### **Article 9. Scope of Application**

This Agreement shall apply to all investments made after its entry into vigour; however, the conflicts that preceded the entry into force of this Agreement shall be excluded.

## **Article 10. Settlement of Disputes between a Contracting Party and a National of the other Contracting Party**

1. In the event of an investment dispute between a Contracting Party and a national of the other Contracting Party in the territory of that Party, the Parties shall First, they undertake to settle this dispute through conciliation and negotiation.
2. If the conflict cannot be resolved in accordance with the provisions of paragraph 1 of this Article within six (6) months for From the date of submission of the request for arbitration and negotiation, each Party shall the contracting party agrees to submit any dispute or dispute that may arise from the investments or related thereto recorded on its territory by a national or a company of the other Contracting Party for payment by arbitration at the International Chamber of Trade. Concerning the procedure arbitration rules, the 1988 arbitration rules of the International Chamber of Commerce apply.

## **Article 11. Settlement of Disputes between Contracting Parties**

1. Disputes between the Parties about the relative interpretation of the in the application of this Agreement shall be resolved through diplomatic channels.
2. If such a dispute between the Parties cannot be resolved by means of a diplomatic, it may be submitted to a Tribunal at the request of one of the Contracting Parties.
3. In this case, the Arbitral Tribunal shall be constituted as follows:
  - Within two months after receipt of a request for arbitration, each Contracting Party shall designate a arbitrator to sit on the Tribunal;
  - The two arbitrators choose a national a third State which, with the consent of of both Contracting Parties, is designated as Chief Arbitrator of the Tribunal;
  - The Chief Arbitrators shall be appointed within two months following the appointment of the two arbitrators.
4. If, within the time limits specified in paragraph (3) of this Article, the necessary appointments are not made, either Party may, in the absence of any other Agreement, invite the President of the International Court of Justice or the International Chamber of Commerce to proceed with the appointments required. If the President is a of one of the Contracting Parties or if, for any reason, it is not able to carry out this task, the Vice-Chairman will be invited to make the appointments required. If the Vice-President is a national of one of the Contracting Parties or if he too is not able to complete In this function, the member of the International Court of Justice immediately afterwards in the order seniority and who is not a national of one of the of the Contracting Parties shall be invited to make the appointments.
5. The Arbitral Tribunal shall render its award to the majority of opinions. His sentence is binding on both of them Contracting Parties. Each Party shall covers the costs related to its own arbitrator and his or her representation during acts of arbitration; charges relating to the Chief Arbitrator and other costs will be borne equitably by the Contracting Parties.

However, the Arbitral Tribunal, in making its sentence, could come to the idea that more of the costs are covered by one of the two Parties, which will bind the both Parties. The Tribunal may decide on the procedure to follow for the execution.

## **Article 12. Final Provisions**

1. This Agreement shall enter into force on the date the most recent and to which the Parties respective contractors may reciprocally notify in writing that the legal formalities required on their respective territories have been fulfilled.
2. This Agreement shall remain in force for a period of ten-year period. After that, it continues to be in force until the expiry of the twelve month from the date on which one or more the other Contracting Party has given notice of termination in writing to the other.
3. Provided that, as far as the investments made at any time prior to upon termination of this Agreement, these provisions shall continue to take effect with regard to such investments for a period of ten years years from the date of termination.
4. This Agreement may be amended by exchange of verbal notes.

IN WITNESS WHEREOF, the Representatives undersigned, duly authorized by their respective Governments, have signed this

Agreement in duplicate in languages Chinese and French, both texts making also faith.

Done at Taipei on the ninth day of the tenth month of the eighty-seventh year of the Republic of China corresponding to October 9, 1998.

For the Government of the Republic of China

[Signed] Jason C. HU, Minister of Foreign Affairs

For the Government of the Burkina Faso

[Signed] Ablated OUEDRAOGOGO Minister of Foreign Affairs