

# **Treaty between the Federal Republic of Germany and the Republic of Chad on the encouragement and mutual protection of of capital investments**

THE FEDERAL REPUBLIC OF GERMANY AND THE REPUBLIC OF CHAD

DESIRING to deepen economic cooperation between the two countries,

DECLARING to create favorable conditions for the investments of nationals or companies of one State in the territory of the other State;

RECOGNIZING that the promotion and the contractual protection of these investments are likely to stimulate private economic activity and increase the prosperity of the two peoples,

HAVE AGREED AS FOLLOWS:

## **Article 1.**

Each Contracting Party shall, as far as possible, promote the investment of nationals or companies of the other Contracting Parties in its territory and permit such investments in accordance with its laws. In any case, it will treat capital investments fairly and cheaply.

## **Article 2.**

(1) Each Contracting Party shall, in its territory, treat investments which are the property or under the influence of nationals or companies of the other Contracting Parties no less favorable than the investments of their own nationals and companies or investments of nationals and companies of third States.

(2) Each Contracting Party shall, in its territory, treat nationals and companies of the other Contracting Parties no less favorably than their own nationals and companies or nationals and companies of third States with regard to their activities in connection with investments.

## **Article 3.**

(1) Investments of nationals or companies of a Contracting Party shall enjoy full protection and security in the territory of the other Contracting Parties.

(2) Investments by nationals or companies of a Contracting Party may be expropriated in the territory of the other Contracting Parties only for the general good and for compensation which must correspond to the value of the expropriated investment. The compensation must in fact be usable and freely transferable and must be made immediately. At the latest at the time of expropriation, appropriate provisions must be made for the setting and performance of the compensation. The level of compensation must be able to be verified by the competent jurisdiction of the country in which the investment was made.

(3) Nationals or companies of a Contracting Party who suffer losses in investments by war or other armed conflicts, revolution, national or truce in the territory of the other Contracting Party shall be treated no less favorably by the Contracting Party in respect of repayments, settlements, compensation or other consideration than their own Nationals or companies. Such payments are freely transferable.

(4) The nationals or companies of a Contracting Party in the territory of the other Contracting Party shall enjoy most-favored-nation treatment with regard to the matters governed by this Article.

## **Article 4.**

Each Contracting Party guarantees to the nationals or companies of the other Contracting Parties the free transfer of capital, income and, in the case of liquidation, the liquidation proceeds.

## **Article 5.**

Where a Contracting Party makes payments to its nationals or companies on the basis of a guarantee for investment in the territory of the other Contracting Party, that other Contracting Party shall recognize the transfer of all rights or claims of such nationals or companies by law or by virtue of the rights of the former Contracting Party On the basis of legal transactions on the former Contracting Parties and their entry into all these rights or claims, which can be exercised to the same extent as from their predecessor. Article 3 (2) and (3) and Article 4 shall apply mutatis mutandis to the transfer of payments to the Contracting Party concerned on the basis of the transferred claims.

## **Article 6.**

(1) Provided that the parties concerned have not made a derogation from the competent authorities of the Contracting Party in whose territory the investment is situated, transfers pursuant to Article 3 (2) or (3), Article 4 or Article 5 shall be effected without delay and with regard to current transactions On the date of the transfer.

(2) The rate valid for current transactions is based on the par value (par value) agreed with the International Monetary Fund and must be parity (parity) within the fluctuation margin permitted under Article IV (3) of the Agreement on the International Monetary Fund.

(3) If there is no conversion rate within the meaning of paragraph 2 with regard to a Contracting Party at the time of the transfer, the official rate shall be applied to that Contracting Party for its currency in relation to the US dollar or any other freely convertible currency or gold Has been established. Where such a price is not fixed, the competent authorities of the Contracting Party in whose territory the capital is invested shall allow a conversion rate which is fair and fair.

## **Article 7.**

(1) If the legislation of a Contracting Party or obligations under international law which exist between the contracting parties or which are established in the future are governed by a general or special regulation which gives the investments of the nationals or companies of the other Contracting Parties more favorable treatment than under this Treaty Is to be granted, this provision shall be governed by this Treaty in so far as it is more favorable.

(2) Each Contracting Party shall comply with any other obligation which it has assumed in respect of investments in its territory by nationals or companies of the other Contracting Parties.

## **Article 8.**

(1) The term "investments" includes all assets, in particular but not exclusively:

- a) Ownership of movable and immovable property as well as other rights in rem such as mortgages, liens or the like;
- b) Share in companies and other types of participations;
- c) Claims for money or services having an economic value;
- d) Copyright, industrial property rights, technical procedures, trade names and goodwill;
- e) Public-law concessions, including concessions and concessions.

A change in the form in which assets are invested does not affect their property as an investment.

(2) The term "income" refers to the amounts that are attributable to an investment as a profit or interest for a certain period of time.

(3) The term "nationals"

- a) With regard to the Federal Republic of Germany:

German in the sense of the Basic Law for the Federal Republic of Germany;

b) As regards the Republic of Chad:

Persons who are citizens of the Czech Republic according to the legislation on Chadian citizenship.

(4) The term "companies"

a) With regard to the Federal Republic of Germany:

Any legal person, any trading company or other company or association with or without legal personality who is domiciled in the territory of the Federal Republic of Germany and who is entitled under the laws to impose unlimited or unlimited liability on the part of its members, is aimed at profit or not;

b) As regards the Republic of Chad:

Any legal person or production and trading company, artisan or artistic company with or without legal personality, which is lawful according to the law, whether or not the liability of its members, members or members is limited or unrestricted and whether its activity is for profit or not ,

## **Article 9.**

This contract shall also be subject to investments made by nationals or companies of one Contracting Party in accordance with the legislation of the other Contracting Party in its territory before the entry into force of this Treaty. The agreement of 27 February 1953 on German foreign debt shall remain unaffected.

## **Article 10.**

Each Contracting Party grants national treatment under this Treaty on account of the fact that, in the same matters, treatment by the other Contracting Party is granted by the other Contracting Party.

## **Article 11.**

(1) Any disputes concerning the interpretation or application of this Agreement shall, as far as possible, be settled by the Governments of the two Contracting Parties. To this end, the two governments will use a mixed government commission. It shall meet at the request of one of the two Governments to examine the questions arising from the application of this Treaty and to make proposals for their solution.

(2) If a dispute can not be settled in this way, it shall be submitted to an arbitration court at the request of one of the two contracting parties.

(3) The arbitral tribunal shall be constituted on a case-by-case basis by appointing a member to each of the Contracting Parties, and both members as members of a third State as chairman to be appointed by the Governments of the two Contracting Parties. The members shall be appointed within two months to order the chairman within three months after the one party to the agreement has informed the other that they intend to submit the dispute to an arbitration court.

(4) If the deadlines set out in paragraph 3 are not met, in the absence of any other agreement, each Contracting Party may ask the President of the International Court of Justice to make the necessary appointments. If the President has the nationality of either Contracting Party or if he is prevented from doing so for another reason, the Vice-President shall make the appointments. If the Vice-President also has the nationality of either Contracting Party or if he is also prevented from attending, the next member of the Court of Justice who is not a national of either Contracting Party shall make the appointments.

(5) The arbitral tribunal shall decide by a majority of votes. Its decisions are binding. Each Contracting Party shall bear the costs of its member and its representation in the proceedings before the arbitral tribunal; The costs of the chairman and the other costs are borne equally by the two contracting parties. The arbitral tribunal may adopt a different cost regime. Moreover, the arbitral tribunal shall regulate its own procedures.

## **Article 12.**

The provisions of this Agreement shall also remain in force in the event of disputes between the Contracting Parties, without prejudice to the right to take temporary measures which may be permitted on the basis of the general rules of international

law. Measures of this kind will be lifted no later than the actual end of the dispute, regardless of whether diplomatic relations are restored.

## **Article 13.**

This Agreement shall apply to the territory of Berlin, except for the provisions of Protocol 7, relating to aviation, unless the Government of the Federal Republic of Germany makes a contrary declaration to the Government of the Republic of Chad within three months of the entry into force of this Treaty.

## **Article 14.**

(1) This Treaty shall be subject to ratification; The instruments of ratification shall be exchanged as soon as possible in Fort Lamy.

(2) This Treaty shall enter into force one month after the exchange of the instruments of ratification. It shall remain in force for a period of ten years and shall be extended indefinitely unless terminated in writing by one of the two Contracting Parties a year before its expiry. After ten years, the contract may be terminated at any time but remains in force for one year after termination.

(3) For investments made up to the date of the expiry of the contract, Articles 1 to 13 shall continue to apply for a further ten years from the date of termination of this contract.

DONE at Bonn on April 11, 1967 in two copies, one in the French and one in the German language, each text being equally authentic.

For the Federal Republic of Germany

Brandt

For the Republic of Chad

Dr. Jacques Baroum

## **Protocol**

At the time of signing the Treaty on the Encouragement and Mutual Protection of Capital Investments, concluded between the Republic of Chad and the Federal Republic of Germany, the undersigned Plenipotentiaries have further agreed upon the following arrangements which shall be considered as forming an integral part of the Treaty:

### **1. Ad Article I**

Investments made in accordance with the legislation of one of the Contracting Parties within the scope of its law by nationals or companies of the other Contracting Party shall enjoy the full protection of this Treaty.

### **2. Ad Article 2**

(a) Activities within the meaning of paragraph 2 of Article 2 shall include, but not be limited to, the administration, use, and enjoyment of an investment.

The following shall in particular be considered as "less favourable treatment" within the meaning of paragraph 2 of Article 2: any restriction on the purchase of raw and auxiliary materials, of energy and fuel, and of means of production and operation of any kind, any impediment to the sale of products within the country and abroad, and any other measures having a similar effect.

Measures taken for reasons of public safety, order, health or morality shall not be considered as "less favourable treatment" within the meaning of Article 2.

(b) Paragraph 2 of Article 2 shall not apply to entry, residence and employment as an employee.

### **3. Ad Article 3**

The provisions of paragraph 2 of Article 3 shall also apply to the transfer of a capital investment into public ownership, to its placing under public control or to similar interventions by public authorities. Expropriation" means the withdrawal or limitation of any right of ownership which, alone or together with other rights, constitutes a capital investment.

### **4. Ad Article 4**

Any alienation effected with a view to relinquishing all or part of the investment shall also be deemed to be a "liquidation" within the meaning of Article 4.

### **5. Ad Article 6**

Any transfer which takes place within the period of time normally required for compliance with the transfer formalities shall be deemed to be effected "without delay" within the meaning of paragraph 1 of Article 6. The time limit shall begin to run on the date of the submission of a request relating thereto and shall in no case exceed two months.

### **6. Ad Article 8**

(a) The proceeds of the investment and, in case of re-investment, the proceeds of their re-investment shall enjoy the same protection as the investment.

(b) Without prejudice to other procedures for determining nationality, any person who holds a national passport issued by the competent authorities of the Contracting Party in question shall be deemed to be a national of a Contracting Party.

### **7.**

Each Contracting Party shall refrain from taking any measures contrary to the principles of free competition and likely to eliminate or hinder the participation of the sea or air navigation of the other Contracting Party in the carriage of goods intended for capital investments within the meaning of this Treaty, or of persons whose carriage is in connection with such investments. This provision shall also apply to goods acquired in the territory of a Contracting Party or of a third State with funds from an enterprise in which property has been invested within the meaning of this Treaty, and to persons whose transportation is carried out on behalf of such an enterprise.

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