

Agreement to encourage and guarantee investment between the countries of the Arab Maghreb Union Agreement

The Kingdom of Morocco,

The Islamic Republic of Mauritania,

The Republic of Tunisia,

The Democratic People's Republic of Algeria, and

The Great Socialist People's Libyan Arab Jamahiriya,

- In accordance with the Treaty Establishing the Arab Maghreb Union, in particular Article III thereof,

- In order to achieve their goals,

- In implementation of the program of work of the Arab Maghreb Union,

- Desiring to strengthen closer economic ties and intensifying the fruitful cooperation between the countries of the Arab Maghreb Union,

- Convinced that encourage and guarantee investments under the agreement would strengthen the development and promotion of trade and the benefits shared among the countries of the Arab Maghreb Union in various fields,

- And a sense of the necessity of granting capital and the investments of each country of the Arab Maghreb Union in the other country, should be accorded preferential treatment,

Have agreed as follows:

Chapter I. Definitions

1. Citizen:

Is the natural person who has the nationality of a state party to the Convention, or any legal person of a nationality established in accordance with the laws in force in which the interests of the nationals of one or some of the contracting are preponderant;

2. Capital:

Is the money which is owned by the citizen, and includes everything that can be rectified exchange of material and moral rights, fixed or movable, including, but not limited to bank deposits and financial investments, common and non-common shares, stocks and bonds, as well as real estate and related guarantees such as mortgages and concessions in all its forms and debt, and intellectual property rights, and the elements of non-material relating to commercial assets and services paid arising out of contract, and franchising business granted by law or under contract, including rights relating to the extraction and exploitation and the search for natural resources;

3. Proceeds:

Are the amounts generated by capital investments and any other investments including, but not limited to dividends on shares and stocks and bonds;

4. Investment:

Is the use of capital in one of the permitted areas, in the countries of the Arab Maghreb Union;

5. Investor:

Is a citizen who has the capital and invest in one of the countries of the Arab Maghreb Union;

6. Contracting Party:

It is one of the countries of the Arab Maghreb Union.

Chapter II. Treatment of Investments

Article 1.

Every country in the Arab Maghreb Union in the framework of its provisions, encourages the transfer of capital of its citizen to other countries of the Union, and the transfer of funds owned by the citizens of other countries of the Union, in all areas not prohibited to the citizens of the host country and not limited to them, and within the minimum and maximum rates of participation prescribed in the regulations of the host country. It also undertakes to enable the investor to obtain the facilities and guarantees established under this agreement, and shall provide the investment with fair and equitable treatment.

Article 2.

The Contracting Party shall provide the necessary and appropriate facilities for the investment of capital, according to the nature of the investment, including no less than those provided to the national investor, which shall enable to start business within a reasonable period. Such facilities shall include those facilities in particular:

- Issuance of licenses and approvals necessary for the investment, and import of equipment and resources necessary for the project;
- Obtaining the land needed for the project, by sale or rent;
- Provide facilities and public utilities services;
- Do not impose various constituent investment fees, and service fees more than the national investment endures.

Article 3.

Taking into account the laws in force in the host country, a Contracting Party shall permit the investment project, to freely market its products both internally and externally.

Article 4.

The Contracting Party shall not interfere in the management of the investment, its productivity, financial, employment or other policy.

Article 5.

The investor has the right to freely invest in all aspects of the legally permitted by the nature of the transfer of ownership in whole or in part, to the citizens of countries of the Arab Maghreb Union and to increase, decrease or liquidate, or arrange the rights of others

Article 6.

The investment made by investors in the countries of the Arab Maghreb Union shall enjoy any advantages provided by the Contracting Party to the citizens of the State of any other State.

Article 7.

Investment shall not be subject to any non-tariff restrictions on the import of investment project equipment and its production requirements. It is not required or blocked the import from certain sources.

Article 8.

In the event that the host's country investment regulations require the presence of local partners in certain areas, the investor has the right to freely choose those partners and without the interference from the Contracting Party, that is the host country of the investment.

Article 9.

The host party of the Maghreb shall facilitate the acquisition of labour needs and expertise for the investment.

Article 10.

In the various aspects of its activity, the investor shall take into account the maximum possible degree of coordination with the host Contracting party.

Chapter III. Financial Guarantees

Article 11.

1. Each Contracting Party shall allow the free transfer without delay of capital, its proceeds or any other investment related obligations. The transfer shall be made in a convertible currency at the official exchange rate in effect at the date of the transfer;

2. Without prejudice of the provisions of paragraph 1, any party may enact laws and regulations that may,

A) Require currency exchange authorization;

B) And may in addition, protect the rights of creditors or ensure the implementation of provisions in the proceedings before the courts, by a fair and non-discriminatory application of the laws.

Article 12.

1. The investor shall be entitled to compensation for the damage caused to his investment as a result of the contracting party or one of the general or local authorities or its institutions, including the following:

A) Prejudice to any of the rights and guarantees accorded to the investor in this agreement, for any decision issued by a competent authority;

B) Breach of any of the international obligations and commitments imposed on the responsibility of the contracting party emerging from this agreement for the benefit of the Maghreb investor and a failure to do what is necessary to implement them, whether intentionally or negligently;

C) Refrain from implementing an enforceable judgement, directly related to the investment;

D) Causing harm in any other way by action or inaction to the Maghreb investor, violating the legal provisions in force in the country where the investment takes place.

2. The value of the compensation shall be equal to the damage suffered by the investor, depending on the type and amount of the damage.

Article 13.

1. Compensation shall be in cash if the damage cannot be removed.

2. The compensation shall be due within six months from the date of the damage, and shall be paid within one year from the date of the award that determines the amount of compensation. Otherwise the investor shall be entitled to moratory interest on the unpaid amount from the day following the expiration of this period, according to the prevailing interest rates in the financial market of the host contracting party of the investment.

Article 14.

A Contracting Party may provide special additional benefits beyond what is prescribed in its regulations, or as provided for in this agreement, for investment in the form of joint ventures between the countries of the Arab Maghreb Union, or their respective nationals, or for investment of particular importance to them, particularly those that have a developmental character, according to priority regions or sectors.

In such cases, the scope of the preferential treatment is determined according to the nature and conditions of each of them.

Chapter IV. Legal Safeguards

Article 15.

1. The investments of nationals of any Contracting Party cannot be nationalized or expropriated and such investment may not be subject to any action having a similar effect on the territory of the other Contracting Parties unless the following conditions are met:

A) Such measures shall be taken for the benefit of the public interest and in accordance with the modalities prescribed by the law in the host country for the investment;

B) The said measures shall be taken without discrimination;

C) Such procedures shall be accompanied by prompt, fair and effective compensation, within a period not exceeding one year from the date on which the expropriation decision has become definitive and the property can be freely transferred.

2. The provisions of the first paragraph of this chapter also apply to the proceeds derived from the investment.

Article 16.

The host Contracting Party agrees to be subjected to the investment or export credit guarantees associated with it, which provides for investment guarantees, provided by the other Contracting Party or any other party or international or regional organization or commercial entity, provided that such agreements are subject to the consent of the host country.

Article 17.

If a Contracting Party or an entity pays an amount to the investor, for damages suffered as a result of a security that it had been given to him alone or in association with another party, or as a result of any insurance measures, the investor shall be replaced towards the host Contracting Party, within the limits of what it was paid, and not exceeding the prescribed rights of the investor towards the party in accordance with the laws in force with the host country, and the investor rights remain in existence beyond the amounts paid.

Article 18.

The host Contracting Party shall be committed to ensure that its valuation of the investment, for the purposes of the application of local regulations or for the purposes of this agreement, is a fair evaluation that takes into account the market value of the investment. The transfer is made according to the official exchange rate applied in the host country on the day the transfer is made.

Chapter V. Judicial Safeguards and Settlement of Disputes

Article 19.

The Contracting Parties shall accept the presentation of any dispute of a legal nature that arises between one of them and an investor of one of the other Parties, in respect of an investment to the jurisdiction of the countries of the Arab Maghreb Union and the Arab Investment Court in accordance with the Convention on the Unified Agreement for the Investment of Arab Capital in Arab States, or to conciliation or arbitration specialized in the settlement of investment disputes, in accordance with the relevant conventions ratified by the Contracting Parties to the dispute.

Article 20.

1. Disputes arising between the contracting parties concerning the interpretation or application of the Convention shall be

settled as possible by amicable means.

2. If the dispute cannot be settled by such methods, it shall be submitted at the request of a contracting party before the judicial authorities of the States of the Union or before an arbitral tribunal.

3. In these special cases, the arbitral tribunal shall be composed as follows:

- Within two months from the date of the submission of the request of arbitration, each party shall appoint a member of the arbitral tribunal and those members shall select the President of the arbitral tribunal within thirty days from the date of appointment of the last of them, provided that he is not a national of one of the States Party to the dispute;

- If the necessary appointments are not made during the time limits prescribed, and in the absence of any other agreement, any party may invite the President of the Court of the Union to make the necessary appointments;

- If the President of Court of the Union is a national of a Contracting Party that is a party to the dispute or is unable to carry out the said tasks for any reason, the Vice-President of the Court of the Union shall be invited to make the necessary appointments. If the Vice-President is national of one of the parties to the dispute or could not it is also carrying out the tasks mentioned, a member of the judiciary of the Court of the Union, which follows directly in seniority and that is not of the nationality of a contracting party in the dispute shall be invited to make the necessary appointments

4. The arbitral tribunal shall take its decisions by majority vote and the President shall have a casting vote when there is equality of votes.

The decision of the arbitral tribunal is final and binding to the Parties.

Article 21.

The Convention shall continue to be into force for a period of ten years for the acquired rights and obligations arising therefrom, in the event of any disputes between the countries of the Arab Maghreb Union, and upon termination of this Convention. In the case of a contracts in the implementation phase agreed upon during the entry into force of the Convention or the existence of payments related to those are due and payable, such contracts and payments are subject to the provisions of this Convention and enjoy the rights and obligations they entail.

Article 22.

The Contracting Parties may agree to postpone or temporarily suspend any of the provisions of this Agreement in any of them, upon request, for objective and justified reasons, within specific time or territorial limits. This does not refer to the legal, financial and judicial guarantees contained in this Convention.

It also does not affect the acquired rights or obligations arising before, under the provisions to be discontinued.

Article 23.

This Agreement shall be amended at the request of one of the countries of the Union, with the consent of the other countries. Such amendment shall be effective after ratification by all member states in accordance with procedures set forth below.

Article 24.

This Convention is subject to ratification by all Member States in accordance with the procedures applicable in each of them.

And shall enter into force after the deposit of instruments of ratification by the States to the General Secretariat of the Arab Maghreb Union, which shall notify the Member States to do so.

This Agreement was signed in Algiers on the first of Muharram 1411 (1400 R), corresponding to 23 July 1990, in five original texts which are all equal in legal force.

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