

Agreement on Trade, Investment Protection and Technical and Scientific Cooperation between the Swiss Federal Council and the Government of the Gabonese Republic

The Swiss Federal Council and

the Government of the Gabonese Republic,

Animated by the desire to strengthen their ties of friendship and to broaden and consolidate economic and technical co-operation as well as trade relations between the two countries, have decided, to this end, to conclude the present Agreement. They have agreed as follows

Article 1. Economic Co-operation

The Government of the Swiss Confederation and the Government of the Gabonese Republic undertake to take all possible measures compatible with international agreements and the laws and regulations in force in each of the two countries to facilitate their exchanges in the economic field.

Article 2. Non-Discrimination Clause

Within the framework of this Agreement, the two High Contracting Parties shall refrain in their trade relations from applying discriminatory customs measures in accordance with the rules of the GATT.

The provisions of the preceding paragraph shall not extend to advantages, concessions and exemptions which each of the High Contracting Parties grants or shall grant:

- to neighbouring countries in frontier traffic;
- to countries forming part with it of a customs union or free-trade area already established or which may be established in the future.

Article 3. Import Regime In Switzerland

The Government of the Swiss Confederation shall continue to grant the same liberal regime as that which exists at present to the importation into Switzerland of products of Gabonese origin and provenance.

Article 4. Import Regime In Gabon

The Government of the Gabonese Republic shall authorise the importation of products originating in and coming from the Swiss Confederation. The import regime for Swiss goods shall be placed on an equal footing with that applied to imports from third countries, subject to the provisions of Article 2 in fine.

Article 5. Criteria for the Origin of Goods

For the purposes of this Agreement, the following shall be considered as:

- Swiss products: those whose Swiss origin can, if necessary, be certified in accordance with the laws and regulations in force in Switzerland;
- Gabonese goods are those whose Gabonese origin can be certified, if necessary, in accordance with the laws and regulations in force in Gabon.

Article 6. Commercial Information

The competent services of the two Governments shall communicate to each other as soon as possible all useful information concerning trade, in particular import and export statistics.

Any examination of the traffic in goods and of the balance of trade between the two countries shall be based on import statistics on both sides.

Article 7. Payment System

Payments for trade covered by this Agreement and for services which the two countries offer to each other shall be made in freely convertible currencies.

Article 8. Samples and Advertising Articles, Exhibits and Articles for Testing or Experimentation

The two High Contracting Parties undertake to exempt from customs duties and other import and export taxes, within the framework of the laws, regulations and rules in force in each country, samples and advertising articles "without commercial value" which are indispensable for the receipt of orders and for advertising purposes.

Furthermore, they shall grant each other the benefit of temporary admission for

- a) models and samples of goods;
- (b) articles intended for the performance of tests and experiments
- (c) articles intended for exhibitions, competitions, fairs and other trade events.

Article 9. Technical and Scientific Cooperation

The two High Contracting Parties shall facilitate the exchange of technical and scientific knowledge to be used, in particular, for economic development and the raising of living standards in the territories of the respective countries.

Any concrete co-operation project within the framework of this Article could be the subject of a special protocol (modus operandi) which would lay down the details of the application of the project in question.

Article 10. Commercial or Industrial Activities

Subject to the national requirements in force in each country, the Government of one of the two High Contracting Parties shall give sympathetic consideration to the question of granting to the nationals of the other Party the necessary authorisations and facilities for entry, residence and exercise of commercial, industrial or technical co-operation activities, whenever the granting of such authorisations would contribute to the development of their economic and social potential.

Article 11. Protection of Investments

Investments as well as property, rights and interests belonging to nationals, foundations, associations or companies of one of the High Contracting Parties in the territory of the other or held indirectly by such nationals, foundations, associations or companies shall enjoy fair and equitable treatment at least equal to that accorded by each Party to its nationals.

In any event, the two High Contracting Parties undertake to guarantee and ensure, in accordance with the law of nations, the protection of investments made in the territory of their respective countries by such nationals, foundations, associations or companies.

Each Party undertakes to permit the free transfer of the proceeds of work or activity carried on in its territory by nationals, foundations, associations or companies of the other Party, as well as the free transfer of interest, dividends, royalties and other income, depreciation and, in the event of partial or total liquidation, the proceeds thereof.

In the event of a Party expropriating or nationalizing property, rights or interests belonging to or held indirectly by nationals, foundations, associations or companies of the other Party, or taking any other direct or indirect measures of dispossession against such nationals, foundations, associations or companies, it shall provide for the payment of effective and adequate compensation in accordance with the law of nations. The amount of such compensation, which shall be fixed at the time of

expropriation, nationalization or dispossession, shall be in transferable currency and shall be paid without undue delay to the entitled person, wherever he may reside. However, the measures of expropriation, nationalisation or dispossession shall not be discriminatory or contrary to any specific undertaking.

Article 12. Arbitration Clause for the Protection of Investments

If a dispute arises between the High Contracting Parties concerning the interpretation or application of the provisions of Article 11 above and if the dispute cannot be settled satisfactorily through diplomatic channels within six months, it shall be submitted, at the request of either Party, to an arbitral tribunal of three members. Each Party shall appoint one arbitrator. The two arbitrators appointed shall appoint a referee who shall be a national of a third State.

If one of the Parties has not appointed its arbitrator and has not complied with the invitation of the other Party to do so within two months, the arbitrator shall be appointed by the President of the International Court of Justice at the request of that half Party.

If the two arbitrators cannot agree, within two months after their appointment, on the choice of a referee, the referee shall be appointed, at the request of one of the Parties, by the President of the International Court of Justice.

If, in the cases provided for in paragraphs 2 and 3 of this article, the President of the International Court of Justice is prevented from acting or if he is a national of one of the Parties, the appointments shall be made by the Vice-President. If the latter is prevented from acting or if he is a national of one of the Parties, the appointments shall be made by the most senior member of the Court who is not a national of any of the Parties.

Unless the Parties otherwise provide, the Tribunal shall determine its own procedure.

The decisions of the Tribunal shall be binding on the Parties.

Article 13. Joint Commission

A Joint Commission shall meet at the request of either High Contracting Party. It shall monitor the application of this Agreement and agree on any measures to improve economic relations between the two countries.

Article 14. Application of the Agreement to Liechtenstein

Articles 2 to 8 of this Agreement shall apply to the Principality of Liechtenstein as long as it is bound to the Swiss Confederation by a treaty of customs union.

Article 15. Entry Into Force and Renewal

The present Agreement shall apply provisionally upon signature. It shall enter into force when the High Contracting Parties have notified each other of the completion of the constitutional formalities required for the conclusion and bringing into force of international treaties.

It shall be renewable from year to year by tacit agreement unless either Party denounces it in writing three months before its expiry.

In the event of denunciation, the provisions of Articles 11 and 12 above shall continue to apply for a period of ten years to investments made before the denunciation.

The provisions of this Agreement shall continue to apply after its expiry to all contracts concluded during the period of its validity but not fully performed by the date of expiry.

Done in duplicate at Berne on 28 January 1972.

For the Government of the Swiss Confederation:

Moser

For the Government of the Gabonese Republic:

Sandoungout