

Agreement between the Kingdom of Morocco and the Socialist People's Libyan Arab Jamahiriya on the Promotion and Protection of Investments

The Kingdom of Morocco and the Socialist People's Libyan Arab Jamahiriya hereinafter referred to as the Contracting Parties:

Proceeding from the brother links that bind the Arab people and achieve the objectives of economic cooperation for the benefit of the two countries;

Desiring to create favorable conditions for investments of investors of either Contracting Party in the territory of the other contracting party

Recognizing the need to promote and protect investments of investors of both Contracting Parties and to promote the flow of investments and individual initiatives up to the economic prosperity of both contracting Parties.

They agreed on what follows:

Article 1. Definitions

1. The term "investment": All types of assets that are invested by investors of a Contracting Party in the territory of the other contracting party in accordance with the laws and regulations in force in each and include, in particular, but not limited to:

- a. Movable and immovable property as well as other property rights such as mortgages and the rights and privileges of other mortgages;
- b. Shares, bonds and all forms of contributions to companies;
- c. Cash benefits or any contractual rights with a financial value;
- d. Industrial and intellectual property rights, including copyrights, patents, marks and industrial designs, trademarks, the know-how and any other similar rights;
- e. Privileges conferred by law or under contract, including exploration and extraction of natural resources or exploiting privileges.

Any change in the form in which assets were invested does not affect the nature of the investment.

2. The term "investor"

- a. Every natural person holds Libyan nationality or Moroccan nationality in accordance with applicable law in each of the contracting parties.
- b. Every legal person was established according to the law in force in each of the contracting parties and is based in this territory of the contracting party.

3. The word "returns" means the amount of money generated by investments and in particular, though but not limited to: earnings, interest, dividends, shares, royalties and fees.

4. The term "territory" means

- a. For the Socialist People's Libyan Arab Jamahiriya: All lands that are unique to the state including the economic zone, including the bottom of the sea and under the earth's surface and airspace above them, which it exercises sovereign rights or authority on, in accordance with the international law.

b. For the Kingdom of Morocco: the soil of the Kingdom of Morocco and the sea, regional and along the sea, depths, underground water adjacent to the shores of Morocco and located beyond the regional special economic zone waters, which is practiced by Morocco in accordance with the domestic law and international law, their sovereign rights to explore and exploit its natural resources (the Continental Shelf).

Article 2. Investment Promotion and Protection

1. Each Contracting Party accepts to promote in its territory in accordance with its laws and regulations the investments of investors of the other contracting party and creates favorable conditions for such investments;
2. Each Contracting Party shall ensure a fair and equitable treatment to investments of investors of the other contracting party and with the exception of the measures necessary to maintain public security, these investments are protected and secured fully and comprehensively, and no Contracting Party can take a discriminatory measures that hamper the conduct of the investments investors of the other contracting party territory or maintenance, use, utilization or disposition.

Each Contracting Party shall ensure to honor the commitments it has undertaken with respect to investments of investors of the other contracting party.

Investment returns shall enjoy in the case of re-invested in accordance with the laws of one Contracting Party the same protection as the original investment.

Article 3. Treatment of Investments

1. Each Contracting Party shall provide in its territory for investments of investors of the other Contracting Party a treatment that not less favorable than that it accords to investments of its own investors or investments of any third State.
2. Each Contracting Party shall provide in its territory to investors of the other contracting party with respect to the conduct of their investments, maintenance or use or utilization or disposal a treatment not less favorable than that it accords to its own investors or investors of any third country and the most favorable treatment is taken.
3. The provisions of this Agreement relating to the most favorable treatment accorded to investors of any Contracting Party or a third country does not oblige one Contracting Party to extend to investors of the other contracting party any treatment or benefits or advantage resulting from the following:
 - a. Any economic or a customs union or a free trade area or a common market or any similar international agreement or any form of regional economic organizations in which one Contracting Party is a member, or may join in the future.
 - b. Any agreement or any international arrangement on wholly or mainly related to tax system.

Article 4. Special Agreements

The investments, which are subject to the requirements of a special agreement between one Contracting Party and the investors of the other contracting party is subject to the provisions of those special agreements as long as they offer more favorable terms than the provisions of this Agreement.

Article 5. Expropriation and Compensation

1. Nationalization measures, expropriation or any other measure that has the same effect (hereinafter referred to as expropriation) that may be taken by one Contracting Party to the investments of investors of the other contracting party should not be discriminatory or justified with reasons other than for the public interest.
2. The contracting party who expropriate shall grant to the rights holders a fair and equitable compensation that equals the market value of an investment on the previous day for the day when the measures was taken or announced to the public.
3. The amount of compensation mentioned must be determined and made able to perform and paid without delay, no later than three months from the date of expropriation, and in the case of delay in performance , the compensation interest is calculated at the market price on the date of implementation of the aforementioned measures and up to the date of the performance and the compensation is paid to investors in a freely convertible currency and be freely transferred.

Article 6. Compensation for Losses

The investors of one Contracting Party who have suffered investment losses as a result of war or armed conflict, revolution, state of national emergency or uprising or disorder or other similar events in the other contracting party territory are benefiting by the latter of a treatment that is not less favorable than that it accords to its own investors or to investors of any third country and taken the most favorable treatment in terms of callbacks, compensation, bonuses or any other settlement related to those losses

Article 7. Transfers

1. Each Contracting Party shall ensure to investors of the other contracting party after their performance of duties of the tax, the free transfer of the following:

- a. Invested capital, including reinvested returns or any additional amount aimed at investment maintenance;
- b. Profits, dividends, interest, royalties or any other current revenues;
- c. The amount necessary to pay off loans related to investment;
- d. Proceeds from the sale or liquidation of all or part of the investment;
- e. Compensation paid in accordance with articles 5 and 6;
- f. Wages, salaries and other rewards that go back to the citizens of one of the contracting parties who are authorized to work in the territory of the other contracting party in accordance with applicable exchange systems in each Contracting Party

2. Transfers referred to in paragraph 1 is paid without delay and in a convertible currency and the exchange rate in effect on the date of transfer and in accordance with the systems of exchange in the host country.

Article 8. Subrogation for the Investor

1. If the payment of compensation to an investor of one Contracting Party under a legal or contractual guarantee covering non-commercial risks for investment in the territory of the other Contracting Party, the latter recognizes the insured investor subrogation of all the rights and entitlements was compensated for.

2. Based on the guarantee granted to the investment the insurer may exercise all the rights that were exercised by the investor insured if was not replaced.

3. Any dispute between one Contracting Party and insure of the investment of the other Contracting Party, is settled in accordance with the provisions of Article 9 of this Agreement.

Article 9. Settlement of Disputes Related to Investments

1. Any dispute relating to investments arises between one Contracting Party and the investors of the other contracting party as much as possible shall be settled by mutual consent through consultations and negotiations between the parties to the dispute.

2. If the dispute cannot be settled by mutual consent in a matter of six months starting from the date of notification in writing, the dispute is displayed upon the choice of the investor:

- a. Either to the competent court of the Contracting Party that the investment was done in its territory;
- b. Or in accordance with the rules of the International Chamber of Commerce in Paris;
- c. Or to the Arbitration Court of the Arab Investments to be settled in accordance with the provisions of the chapter on the settlement of disputes of the Unified Agreement for the Investment of Arab capital in Arab countries for the year 1980, or on the Cairo Center for International Commercial Arbitration;

For this purpose, each Contracting Party gives final approval, and every dispute related to the investment is subject to the ruler of arbitration.

3. None of the contracting parties, a party to the conflict, can raise an objection at any stage of the arbitration proceedings or implementation of an arbitration award on the grounds that the investor of the other party to the dispute has received compensation partially or totally covers his losses under an insurance.

4. Arbitration tribunal shall take its decisions according to the provisions of this Agreement relating to the agreements that have been signed on investment, as well as the principles of international law.
5. Arbitration decisions are considered final and binding for the parties to the dispute, and each Contracting Party is committed to implementing.

Article 10. Settlement of Disputes between the Contracting Parties

1. As much as possible the settlement of disputes arising between the contracting parties with regard to the interpretation or application of this Agreement shall be done through diplomatic means.
2. If it was not possible to resolve the dispute within six months from the start of negotiations, the dispute is displayed to the arbitration tribunal at the request of one Contracting Party.
3. Arbitration is composed as the following:

Each Contracting Party shall appoint an arbitrator, and the two arbitrators shall choose the third arbitrators together from another country as a president of the arbitration tribunal, and arbitrators should be appointed within three months and the appointment of the president in a matter of five months, starting from the date of informing one of the Contracting Parties the other party of its intention to submit the dispute to an arbitration tribunal.

4. If the deadlines specified in paragraph 3 of this article is not respected, one of the contracting parties shall invite the President of the International Court of Justice to make the necessary appointments, and if the President of the International Court of Justice holds the nationality of one of the contracting parties, or in the case of any impediment to exercise this task, the Vice President is called to make the necessary appointments, and if the Vice President holds the nationality of one of the contracting parties, or in the case of any impediments to exercise of this task, the member most seniority in the International Court of Justice, which does not belong to nationals of one of the contracting parties is invited to do the appointments mentioned.
5. The arbitration tribunal takes its decisions on the basis of the provisions of this Agreement and the norms and principles of international law, and decisions are taken by majority vote, and shall be final and binding on both Contracting Parties.
6. Arbitration tribunal determines its own rules according to its working methods.
7. Each contracting party shall bear its expenses and its representation in the arbitration process, as for President expenses and other expenses should be divided equally between the contracting parties.

Article 11. Application

Provisions of this Agreement shall also apply with respect to its application on the investments completed in foreign currency before the entry into force by investors of one Contracting Party in the territory of the other contracting party, in accordance with the laws and regulations of the latter, this agreement does not apply to disputes that have arisen prior to its entry into force.

Article 12. Entry Into Force and Duration of the Agreement

1. This Agreement shall be open to ratification and shall enter into force thirty days from the date of receipt of the last written two notifications of Contracting Parties completion of constitutional procedures in force in both countries.
2. This Agreement shall remain in force for a period of ten years, automatically renewable for similar periods, and either Contracting Parties may terminate it at the end of the first ten years or at the end of any period of extension, and so notify the other contracting party in writing of its intention to terminate the provisions of this Agreement six months before the expiration of the period.
3. Completed investments in accordance with the provisions of this Agreement, shall remain subjected to it another ten years from the expiration date.
4. This agreement shall replace the Agreement of investment promotion and guarantee signed between the two countries in Rabat on January 25, 1984, 22 Rabi II 1404 AH, starting from the date of entry into force of this Agreement

Done in Casablanca on 10/02/2000 in two Arabic original copies in the Arabic language each having the same value.

For the Socialist People's Libyan Arab Jamahiriya

Dr. Khaled Faraj Al-Zaitoni

Assistant Secretary for Investment and the General Popular Committee for African Unity

For the Moroccan Government

Fathallah Walle'lu

Minister of Economy and Finance, Privatization and Tourism