

CONVENTION BETWEEN THE BELGO-LUXEMBOURG ECONOMIC UNION AND THE REPUBLIC OF TUNISIA CONCERNING THE ENCOURAGEMENT OF CAPITAL INVESTMENT AND THE PROTECTION OF PROPERTY. SIGNED AT TUNIS, ON 15 JULY 1964

The Government of the Republic of Tunisia and the Government of the Kingdom of Belgium, acting by virtue of the Convention for the Establishment of the Belgo-Luxembourg Economic Union both on its own behalf and on behalf of the Grand Duchy of Luxembourg,

Desiring to create favourable conditions for capital investment by nationals and corporations of either Contracting Party in the territory of the other Contracting Party,

Recognizing that the contractual protection of investments is likely to stimulate private economic initiative and increase prosperity,

Have agreed as follows :

Article 1.

Each Contracting Party undertakes to ensure in its territory just and equitable treatment for the investments, property, rights and interests belonging to nationals and corporations of the other Contracting Party and to prevent unjustified or discriminatory measures from interfering with the exercise of the right thus recognized.

To that end, each Contracting Party shall accord such investments, property, rights and interests at least the same security and protection as it accords those of its own nationals or investments of nationals and corporations of third States.

Article 2.

Each Contracting Party undertakes to authorize, in conformity with the regulations promulgated in pursuance of its present legislation or of any more favourable legislation that may be enacted in the future or of rules agreed upon between the two Parties, the transfer :

- Of net profits, interest, dividends and royalties due to nationals or corporations of the other Party ;
- Of the proceeds of the complete or partial liquidation of investments approved by the country in which they are made ;
- Of an adequate part of the earned income of nationals authorized to work in the territory of either Contracting Party.

Article 3.

Where one Party expropriates or nationalizes investments, property, rights or interests belonging to nationals or corporations of the other Contracting Party or takes any other measure which results directly or indirectly in the dispossession of such nationals or corporations, it shall make provision, in accordance with international law, for the payment of effective and adequate compensation. The amount of such compensation, which shall be fixed at the time of the expropriation, nationalization or dispossession, shall be paid to the due recipient and transferred without delay. Measures of expropriation, nationalization or dispossession shall be neither discriminatory nor inconsistent with a specific undertaking.

Article 4.

Where a dispute arises between the Contracting Parties as to the interpretation or application of the provisions of articles 1

to 3 above and where such a dispute cannot be settled satisfactorily through the diplomatic channel within a period of six months, it shall be submitted, at the request of either Party, to an arbitral tribunal consisting of three members. Each Party shall appoint one arbitrator. The two arbitrators so appointed shall select a referee who shall not be a national of either Party.

If either Party fails to appoint its arbitrator and fails to comply with the other Party's request to make such an appointment within two months, the arbitrator shall be appointed, at the request of the latter Party, by the President of the International Court of Justice.

If the two arbitrators cannot agree within a period of two months following their appointment on the choice of a referee, the latter shall be appointed at the request of either Party 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 unable to act, or if he is a national of either Party, the Vice-President shall make the appointment. If the Vice-President is unable to act, or if he is a national of either Party, the appointment shall be made by the senior member of the Court who is not a national of either Party.

The tribunal shall base its decision on respect for the law. Before giving its decision, it may at any stage of the proceedings propose to the Parties an amicable settlement of the dispute.

If the Parties agree, the tribunal shall settle the case *ex aequo et bono*.

Unless the Parties otherwise decide, the tribunal shall determine its own rules of procedure.

Decisions of the tribunal taken by a majority of the arbitrators shall be binding on the Parties.

Article Article 5

Where a matter is governed both by this Convention and by another international agreement binding either Party, nothing in this Convention shall prevent a national of one Party who owns property in the territory of the other Party from taking advantage of whichever regulations are the more favourable to his case.

Article 6.

This Convention is concluded for a period of ten years and is renewable for the same length of time, unless notice of termination is given in writing by either Contracting Party one year before the expiry of each period.

In respect of investments made and of property, rights and interests acquired before its date of expiry, this Convention shall continue to be applicable for ten years after its date of expiry.

Article 7.

From the date of signature of this Convention the two Contracting Parties shall apply provisionally, pending the entry into force of the Convention, the provisions of article 2.

This Convention shall be ratified and the instruments of ratification shall be exchanged at Tunis.

It shall enter into force fifteen days after the date of the exchange of the instruments of ratification.

IN WITNESS WHEREOF the undersigned representatives, duly authorized by their respective Governments, have signed this Convention.

Done at Tunis on 15 July 1964, in two originals in the French language, both texts being equally authentic.

For the Government of the Republic of Tunisia :

Ahmed Ben Salah

For the Belgo-Luxembourg Economic Union :

M. Brasseur

Exchange of letters

I.

CHAIRMAN OF THE TUNISIAN DELEGATION

Tunis, 15 July 1964 Sir,

On signing the Convention between the Republic of Tunisia and the Belgo-Luxembourg Economic Union concerning the Encouragement of Capital Investment and the Protection of Property, I have the honour to confirm to you that this Convention fulfils the conditions laid down by article 4, paragraph 1, of Legislative Decree No. 61-14 of 30 August 1961 of the Republic of Tunisia in respect of the exercise of certain commercial activities.

Consequently, Belgian and Luxembourg nationals or corporations already established in Tunisia as at today's date may continue to exercise their activities in all the fields subject to authorization and shall receive a commercial licence for a period of five years which is renewable.

Belgian and Luxembourg nationals or corporations, engaged on the date of the entry into force of this Convention in one of the occupations specified in article 8 of the abovementioned Legislative Decree, shall benefit from the exceptions provided for in that article for a period of five years which is renewable.

I wish to point out, however, that under Tunisian law the prior consent of the Tunisian Government is still obligatory for the exercise in Tunisia of commercial or similar activities other than activities connected with investments approved by my Government.

However, the Government of the Republic of Tunisia will give favourable consideration to applications made to it in the future by Belgian or Luxembourg nationals or corporations for the purpose of engaging in an occupation which is subject to authorization or reserved to Tunisian nationals except for individual cases.

Accept, Sir, the assurances of my highest consideration. Ahmed BEN SaLau

Chairman of the Delegation of the Belgo-Luxembourg Economic Union

II.

CHAIRMAN OF THE DELEGATION OF THE BELGO-LUXEMBOURG ECONOMIC UNION

Tunis, 15 July 1964 Sir,

During the negotiations which took place between our two delegations on the occasion of the signing of the Convention concerning the Encouragement of Capital Investment and the Protection of Property, it was agreed that as regards the application of the provisions of article 2, paragraph 4 of the said Convention, the Government of the Republic of Tunisia will guarantee to Belgian and Luxembourg nationals and corporations engaged in their activities in Tunisia treatment not less favourable than that granted to nationals and corporations of any other country under laws and regulations in force and conventions existing between such countries and the Republic of Tunisia.

I should be grateful if you would confirm that your Government agrees to the above.

Accept, Sir, the assurances of my highest consideration.

M. Brasseur Chairman of the Tunisian Delegation

III.

CHAIRMAN OF THE TUNISIAN DELEGATION

Tunis, 15 July 1964 Sir,

You were good enough to send me a letter which reads as follows : [See letter II]

I have the honour to confirm to you my Government's agreement to the above.

Accept, Sir, the assurances of my highest consideration.

Ahmed Ben Salah

Chairman of the Delegation of the Belgo-Luxembourg Economic Union

IV.

CHAIRMAN OF THE DELEGATION OF THE BELGO-LUXEMBOURG ECONOMIC UNION

Tunis, 15 July 1964

Sir,

During the conversations which took place between our two delegations on the occasion of the signing of the Convention concerning the Encouragement of Capital Investment and the Protection of Property, we agreed that it would be of the greatest value for the full attainment of the objectives of the Convention to conclude an agreement for the avoidance of double taxation.

I should be grateful if you would confirm that your Government agrees to the above.

Accept, Sir, the assurances of my highest consideration.

M. Brasseur

Chairman of the Tunisian Delegation

V.

CHAIRMAN OF THE TUNISIAN DELEGATION

Tunis, 15 July 1964

Sir, You were good enough to send me a letter which reads as follows: [See letter IV]

I have the honour to confirm to you my Government's agreement to the above.

Accept, Sir, the assurances of my highest consideration.

Ahmed Ben Salah

Chairman of the Delegation of the Belgo-Luxembourg Economic Union