

# Treaty between the Federal Republic of Germany and the Kingdom of Morocco on the mutual promotion and protection of investments

The Federal Republic of Germany and the Kingdom of Morocco -

In the desire to deepen economic cooperation between the two countries,

In the endeavor to create favorable conditions for investments by investors of one State in the territory of the other State,

Recognizing the fact that the promotion and the contractual protection of these investments are capable of stimulating private economic initiatives and increasing the prosperity of the two peoples -

Have agreed as follows:

## Article 1.

For the purposes of this Treaty

1. The term "investment" means assets of any kind invested by an investor of one of the Contracting States in the territory of the other Contracting State in accordance with its laws and regulations, in particular

- a) Ownership of movable and immovable property as well as all other rights in rem such as mortgages and pledge rights, rights of preferential satisfaction, usufruct and similar rights;
- b) Share ownership in companies and all other types of participations in companies, including minority interests or indirect participations, as well as debt securities and similar shares of a company;
- c) Claims on money or services which have an economic value and are related to an investment;
- d) Intellectual property rights, such as, in particular, copyright, patents, utility models, industrial designs, trade names, business and business secrets, technical procedures, know-how and goodwill;
- e) Public-law and contractually agreed concessions, including concession and concession concessions for natural resources;

A change in the form in which assets are invested shall not affect their property as investment under the terms of this Treaty;

2. The term "income" means the amounts accruing to an investment for a certain period, such as profit shares, dividends, interest, royalties or other current income;

3. The term "investor"

- a) Germans within the meaning of the Basic Law for the Federal Republic of Germany and natural persons of Moroccan nationality within the meaning of the laws of the Kingdom of Morocco, which make an investment in the territory of the other Contracting State,
- b) Any legal person or any commercial or other company established in the territory of the Federal Republic of Germany or of the Kingdom of Morocco which has been lawfully established under German or Moroccan law, whether or not its activity is directed at profit, and in the territory of the other A capital investment;

4. The term "territory"

- a) In relation to the Federal Republic of Germany:

The territory in which the law of the Federal Republic of Germany applies and the territory in which the international law of the Federal Republic of Germany permits the exercise of sovereign rights or sovereign powers,

b) As regards the Kingdom of Morocco:

The territory of the Kingdom of Morocco, including any marine zone situated outside the territorial waters of the Kingdom of Morocco, which has been or may be designated as a zone in the legislation of the Kingdom of Morocco, in accordance with international law, The sea and the subsurface, as well as the natural resources.

## **Article 2.**

(1) Each State Party shall, as far as possible, promote investments in its territory by investors of the other Contracting State and allow such investments in accordance with its laws.

(2) Each State Party shall, in its own territory, treat investments of investors of the other Contracting State fairly and fairly in its territory and grant them full protection of this Treaty. Income from the investment and, in the event of its reinvestment, the income from it also enjoy the same protection as the investment.

(3) A Contracting State shall not interfere with the administration, conservation, use, use or disposal of the investments of investors of the other Contracting State in its territory by means of arbitrary or discriminatory measures.

## **Article 3.**

(1) Each Contracting State shall treat investments in its territory owned or under the influence of investors of the other Contracting State no less favorable than the investments of its own investors or investors of third States.

(2) Each Contracting State shall treat investors of the other Contracting State no less favorably than its own investors or investors of third States with regard to its activities in connection with investments in its territory.

(3) This treatment does not relate to the privileges granted by a Contracting State to investors of third countries because of their membership in a customs or economic union, a common market or a free trade area or because of its association with it.

(4) The treatment provided for in this Article does not relate to advantages granted by a Contracting State to investors of third States under an agreement to avoid double taxation or other agreements on tax questions.

## **Article 4.**

(1) Investments by investors of a Contracting State shall enjoy full protection and full security in the territory of the other Contracting State.

(2) Investments made by investors of a Contracting State may be directly or indirectly, in the territory of the other Contracting State, expropriated directly or indirectly, nationalized or subject to other measures which are equivalent to expropriation or nationalization. The compensation must correspond to the market value of the investment taken out immediately before the date on which the actual or imminent expropriation, nationalization or comparable measure became publicly known. The compensation must be paid immediately and interest is payable at the usual bank interest rate until the time of payment; It must in fact be usable and freely transferable. At the latest at the time of expropriation, nationalization or comparable measure must be taken in an appropriate manner for the determination and performance of the compensation provision. The legality of the expropriation, nationalization or comparable measure and the amount of the compensation must be able to be verified by ordinary proceedings.

(3) Investors in a Contracting State who suffer losses in capital through war or other armed conflicts, revolution, state emergency or turmoil in the territory of the other Contracting State shall be treated no less favorably by the State Party in respect of repayments, indemnities, Its own investors. Such payments must be freely transferable.

(4) With regard to the matters governed by this Article, the investors of a Contracting State shall enjoy most-favored-nation treatment in the territory of the other Contracting State.

## **Article 5.**

Each State Party shall ensure that the investors of the other Contracting State are free to transfer the payments relating to an investment, in particular

a) Of the capital and additional amounts for the maintenance or expansion of the investment;

- b) Of the amounts accruing to an investment for a certain period, such as profit shares, dividends, interest, royalties or other current income;
- c) For repayment of loans within the meaning of Article 1 (1) (c);
- d) Of the proceeds from the complete or partial liquidation or disposal of the investment;
- e) Of the compensation provided for in Article 4.

## **Article 6.**

If a Contracting State makes payments to its investors on the basis of a guarantee for an investment in the territory of the other Contracting State, that other Contracting State shall recognize the transfer of all rights or claims of such investors by law or by law to the former Contracting State, The other Contracting State shall also recognize the entry into force of all such rights or claims as may be exercised by the former Contracting State to the same extent as its predecessor. Article 4 (2) and (3) and Article 5 shall apply mutatis mutandis to the transfer of payments under these rights or claims.

## **Article 7.**

- (1) Transfers pursuant to Article 4 (2) or (3), Article 5 or Article 6 shall be effected without delay at the official exchange rate in force on the day of the transfer.
- (2) In the absence of a foreign exchange market, depending on the investor's favor, the final rate for direct investments directed to the host country or the final rate for the conversion of foreign exchange into special drawing rights should be taken into account.

## **Article 8.**

- (1) Where, under the laws of a Contracting State or under obligations under international law which exist or are established in the future between the Contracting States, a general or special rule giving the investments of the investors of the other Contracting State more favorable treatment than under this Treaty, This provision shall be governed by this Treaty in so far as it is more favorable.
- (2) Each State Party shall comply with any other obligation which it has assumed in respect of investments of investors of the other Contracting State in its territory.

## **Article 9.**

This Agreement shall also apply to matters arising after the entry into force of the Agreement in respect of investments made by investors of one Contracting State in accordance with the laws of the other Contracting State in its territory before the entry into force of the Treaty.

## **Article 10.**

- (1) Dissensions between States Parties concerning the interpretation or application of this Treaty shall, as far as possible, be settled by the Governments of the two Contracting States.
- (2) If a disagreement can not be settled in this way, it shall be submitted to an arbitration tribunal at the request of one of the two Contracting States.
- (3) The arbitral tribunal shall be constituted on a case-by-case basis by the appointment by each State Party of a Contracting State and the appointment of both members as members of a third State to be appointed by the Governments of the two Contracting States. The members shall be appointed within two months, the chairman shall be appointed within three months after the one Contracting State has notified the other that he wishes to submit the dispute to an arbitration tribunal.
- (4) If the time limits set out in paragraph 3 are not met, in the absence of any other agreement, any State Party may ask the President of the International Court of Justice to make the necessary appointments. If the President is a national of either Contracting State 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 one of the two Contracting States, or if he is also prevented from attending, the next member of the Court of Justice who is not a national of either Contracting State shall make the appointments.

(5) The arbitral tribunal shall decide on the basis of this Treaty as well as the generally applicable rules of international law. The arbitral tribunal shall decide by a majority of votes. Its decisions are binding. Each State 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 shall be borne equally by the two Contracting States. The arbitral tribunal may adopt a different cost regime. In addition, the arbitral tribunal shall regulate its own procedures.

## **Article 11.**

(1) Disputes concerning investment between one of the Contracting States and an investor of the other Contracting State shall, as far as possible, be settled amicably between the parties concerned.

(2) If the disagreement can not be settled within six months from the date of their assertion by one of the two parties, it shall be submitted to arbitration at the request of the investor of the other Contracting State. Unless the parties to the dispute reach a dissenting agreement, the dispute shall be subject to arbitration under the Convention of 18 March 1965 on the resolution of disputes between States and nationals of other States.

(3) The arbitration award shall be binding and shall not be subject to any means of redress or other remedies other than those provided for in the said Convention. It is enforced under national law.

(4) The State Party to the dispute shall not argue during an arbitration or arbitration proceedings that the investor of the other Contracting State has received compensation for part of the loss or damage caused by an insurance.

## **Article 12.**

This Treaty shall apply regardless of whether diplomatic or consular relations exist between the two Contracting States.

## **Article 13.**

The attached protocol is an integral part of this contract.

## **Article 14.**

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

(2) This Treaty shall enter into force one month after the exchange of the instruments of ratification. It remains in force for ten years; After the expiry of which period, the term of validity shall be extended indefinitely, unless one of the Contracting States terminates the contract in writing with a period of twelve months before the expiry of the contract. After ten years, the contract may be terminated at any time by a period of twelve months.

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

## **Article 15.**

Upon the entry into force of this Treaty, the Treaty of 31 August 1961 between the Federal Republic of Germany and the Kingdom of Morocco on the promotion of investments ceases to exist.

For the Federal Republic of Germany

Hans-Dieter Scheel

For the Kingdom of Morocco

Fathallah Oualalou

At the signing of the Treaty between the Federal Republic of Germany and the Republic of Austria of Germany and the Kingdom of Morocco on the encouragement of the and the protection of mutual investments, the plenipotentiaries, duly authorized to that effect, have further agreed on the following the following provisions which will be considered as making integral part of the Treaty:

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

(a) The following shall be considered as "activities" within the meaning of the paragraph 2 of Article 3, including, but not limited to, the administration, maintenance, use, enjoyment and disposal of of an investment. In particular, the following will be considered "less favourable treatment" within the meaning of Article 3 shall mean any unequal treatment in the event of restrictions on the purchase of raw and auxiliary materials, energy and energy efficiency of any kind, any inequality of treatment in the event of a dispute between the two parties, and any of impediments to the sale of products within the country and to abroad and any other measures having a similar effect. Measures taken for reasons of public security, public order, public health or morals shall not be considered as "less favourable treatment" within the meaning of Article 3.

(b) The Contracting States shall give sympathetic consideration, within the meaning of Article 3, to the framework of their domestic legislation, applications for entry and of residence permits introduced by persons from one of the Contracting States who wish to enter the territory of one of the Contracting States in connection with an investment; the same shall apply to workers of one of the Contracting States who, in connection with an investment, wish to enter the territory of the other Contracting State and to reside there in order to carry on an paid activity. Applications for work permits will also be given sympathetic consideration.

### **2. Ad Article 7**

Any shipment that takes place within the time limit shall be considered as having been effected "without delay" within the meaning of paragraph 1 of Article 7. normally necessary to comply with the transfer formalities. The period shall begin to run on the date of introduction of the the properly completed application. It shall in no way case exceed two months.

### **3.**

In the case of the transport of goods or persons in connection with an investment, a Contracting State shall not exclude or hinder transport undertakings under the jurisdiction of the other Contracting State and, where necessary, shall grant the necessary authorizations for transport.