

Agreement between the Swiss Government and the Republic of Uganda concerning the Encouragement and Reciprocal Protection of Investments

The Government of the Swiss Confederation and the Government of the Republic of Uganda,

Desiring to strengthen the economic cooperation between both countries,

Intending to create favourable conditions for investments by nationals and companies of either Country in the Territory of the other Country and thus intensify the cooperation in the field of production, commerce and science,

Recognizing that the encouragement and protection of such investments are apt to stimulate the flow of capital to the benefit of the economic prosperity of both Countries,

Have agreed as follows:

Article 1.

For the purposes of this Convention:

1. the term "nationals" shall mean:

(a) In respect of the Republic of Uganda:

(i) The Ugandan within the meaning of Chapter II of the Constitution of the Republic of Uganda;

(ii) Companies within the meaning of paragraph 2 below.

(b) As regards the Swiss Confederation: natural persons who according to the laws of Switzerland, shall be regarded as citizens.

2. The term "companies" shall mean:

a) In respect of the Republic of Uganda:

Any juristic person as well as any commercial or other company or public body within the meaning of the companies (Government and public bodies participation) Act of Uganda, or Association with or without legal personality which is in law and in fact controlled by shareholders who are Uganda nationals irrespective of whether the liability of its partners, associates or members is limited or unlimited and of whether or not its activities are directed to the making of profits.

b) In respect of the Swiss Confederation:

Companies, institutions or foundations with legal personality, as well as partnership firms or limited partnerships and other associations without legal personality, in which Swiss nationals have directly or indirectly a substantial interest.

3. The term "investment" shall comprise every kind of asset and more particularly, though not exclusively:

(a) The movable and immovable property, as well as any other rights in rem, such as mortgages, liens pledges, usufructs and similar rights;

(b) Shares and any other kind of interest in companies;

(c) claims to money or to any performance having an economic value;

(d) Copyrights, industrial property rights, technical processes, know-how, trade-marks, trade-names and goodwill;

(e) business concessions under public law, including concessions to search for, extract or exploit natural resources.

4. The term "returns" shall mean:

The amount yielded by an investment for a specific period as net profit or interest.

Article 2.

Each Contracting Party shall promote in its territory investments by nationals or companies of the other contracting party.

This Agreement shall apply to those investments which have been admitted under the respective law of the Contracting Parties.

Article 3.

Each Contracting Party shall protect within its territory investments by nationals or companies of the other Contracting Party and shall not impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment, extension and disposal of such investments.

In particular, each Contracting Party shall facilitate in its territory such productive and commercial activities and shall grant to that effect all necessary permits, including permits for the implementation of manufacturing agreements, for commercial or technical assistance and for the employment of qualified personnel of the other contracting party or of a third State.

Article 4.

Each Contracting Party shall ensure within its territory fair and equitable treatment to the investments by nationals or companies of the other Contracting Party, in accordance with International Law.

This treatment shall not be less favourable than the treatment which either Contracting Party accords within its territory to any other similar investment, to activities of its own nationals and companies or to activities of nationals and companies of a Third State in connection with such investments.

The treatment so granted shall not apply to privileges which either Contracting Party accords to nationals and companies of a Third State because of its membership in, or association with, a customs union, a common market or a free trade area.

Article 5.

Each Contracting Party shall in respect of investments guarantee to nationals or companies of the other Contracting Party the transfer of capital, of the returns from it and, in the event of liquidation, of the proceeds from such liquidation.

Article 6.

Neither Contracting Party shall take any measures of expropriation, nationalization or dispossession, other direct or indirect, against investments by nationals or companies of the other contracting party, unless the following conditions are complied with:

1. The measures are taken in the public interest and under due process of law;
2. The measures are not discriminatory;
3. The measures are accompanied by provision for the payment of reasonable, adequate and effective compensation. Such compensation shall represent the equivalent of the investment at the date of expropriation, nationalisation or dispossession and shall be settled in a convertible currency and paid within a reasonable period of time to the investor irrespective of his place of residence or his seat.

Article 7.

In case one Contracting Party has granted any financial security against non-commercial risks in respect of an investment by a national or a company in the territory of the other Contracting Party, the latter shall recognize the subrogation of rights by assignment of the grantor into the rights of the investor as to damage, if payment has been made under the security and to the extent of that payment.

Article 8.

The present Agreement shall also apply to investments by nationals or companies of either Contracting Party in the territory of the other Contracting Party, made prior to the entering into force of this Agreement and in accordance with the laws in force at that time.

Article 9.

In case either Contracting Party has agreed upon more favourable terms with nationals or companies of the other Contracting Party, such terms shall supersede those specified in this Agreement.

Article 10.

Where any matter is governed by both this Agreements and another international agreement binding on the Contracting Parties, nothing in this Agreement shall prevent a national or a company of either Contracting Party from benefiting by the provisions more favourable to him.

Article 11.

Any dispute between the contracting parties concerning the interpretation or application of the present Agreement shall, if possible, be settled by negotiations between themselves.

If a dispute cannot thus be settled, it shall, upon the request of either Contracting Party, be submitted to an Arbitral Tribunal.

Such Arbitral Tribunal shall consist of three members. Each Contracting Party shall appoint one arbitrator and these two arbitrators shall nominate a chairman who shall be a national of a third State. The two arbitrators shall be appointed within two months, and the Chairman shall be appointed within three months from the date on which either Contracting Party has informed the other contracting party that it wishes to submit the dispute to an Arbitral Tribunal.

If either of such appointments has not been made within the periods specified in paragraph 3, either Contracting Party may invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of either Contracting Party or if he is otherwise prevented from discharging the said function, the Vice-President will be invited to make the necessary appointments. If the Vice-President is a national of either Contracting Party or if he, too, is prevented from discharging the said function, the most senior member of the International Court of Justice who is not a national of either of the Contracting Parties and is not prevented from discharging the said function, will be invited to make the necessary appointments.

Unless the Contracting Parties decide otherwise, the Arbitral Tribunal shall determine its own procedure.

The Arbitral Tribunal shall reach its decisions by a majority of votes. Such a decision shall be final and binding on the contracting parties.

Article 12.

The protocol annexed to this Agreement forms an integral part of it.

Article 13.

The present Agreement shall be subject to ratification, and the instruments of such ratification shall be exchanged as soon as possible in Kampala.

The Agreement shall enter into force on the date of exchange of the instruments of ratification and shall remain in force for a period of five years. Either Contracting Party may terminate the Agreement at the end of the initial five-year period by denouncing it in writing to the other Contracting Party six months before expiration. If the Agreement is not thus terminated, it shall remain in force thereafter for an unlimited period, but may be terminated by either Contracting Party at any time by giving six months notice in writing to the other Contracting Party.

In case official office notice of termination of this Agreement is given, the provision of Articles 1-12 shall continue to be effective in respect of investments made prior to the date of termination for a further period of ten years.

In witness thereof,

the undersigned representative, duly authorized thereto, have signed this Agreement.

Done at Kampala this day of 23rd August 1971, in duplicate, in English and French, both texts being equally authoritative.