

# **Treaty between the Federal Republic of Germany and the Republic of Côte d'Ivoire on the encouragement and mutual protection of capital investments**

THE FEDERAL REPUBLIC OF GERMANY AND THE REPUBLIC OF IVORY COAST -

DESIRING to deepen economic cooperation between the two countries,

DECLARING to create favorable conditions for the investments of nationals or companies of one State in the territory of the other State;

RECOGNIZING that the promotion and the contractual protection of these investments are likely to stimulate private economic initiatives and increase the prosperity of the two peoples -

HAVE AGREED AS FOLLOWS:

## **Article 1.**

Each Contracting Party shall, as far as possible, promote the investment of nationals or companies of the other Contracting Parties in its territory and permit such investments in accordance with its laws. In any case, it will treat capital investments fairly and cheaply.

## **Article 2.**

(1) Each Contracting Party shall, in its territory, treat investments which are the property or under the influence of nationals or companies of the other Contracting Parties no less favorable than the investments of their own nationals and companies or investments of nationals and companies of third States.

(2) Each Contracting Party shall, in its territory, treat nationals and companies of the other Contracting Parties no less favorably than their own nationals and companies or nationals and companies of third States with regard to their activities in connection with investments.

## **Article 3.**

(1) Investments of nationals or companies of a Contracting Party shall enjoy full protection and security in the territory of the other Contracting Parties.

(2) Investments of nationals or companies of a Contracting Party may only be expropriated in the territory of the other Contracting Parties for the general good and for compensation. The compensation must correspond to the value of the expropriated investment, be actually usable and freely transferable, and be made immediately. At the latest at the time of expropriation, appropriate provisions must be made for the setting and performance of the compensation. The legality of the expropriation and the amount of the compensation must be able to be verified by ordinary proceedings.

(3) Nationals or companies of a Contracting Party who suffer losses in investments by war or other armed conflicts, revolution, national or truce in the territory of the other Contracting Party shall be treated no less favorably by the Contracting Party in respect of repayments, settlements, compensation or other consideration than their own Nationals or companies. Such payments are freely transferable.

(4) The nationals or companies of a Contracting Party in the territory of the other Contracting Party shall enjoy most-favored-nation treatment with regard to the matters governed by this Article.

## **Article 4.**

Each Contracting Party guarantees to the nationals or companies of the other Contracting Parties the free transfer of capital, income and, in the case of liquidation, the liquidation proceeds.

## **Article 5.**

Where a Contracting Party makes payments to its nationals or companies on the basis of a guarantee for an investment in the territory of the other Contracting Party, that other Contracting Party shall recognize the transfer of all rights or claims of such nationals or companies by law or by virtue of the rights of the former Contracting Party On the basis of legal transactions to the former Contracting Parties. The latter is entitled to exercise such transferred rights or claims to the same extent as his predecessor. Article 3 (2) and (3) and Article 4 shall apply mutatis mutandis to the transfer of payments to the Contracting Party concerned on the basis of the transferred claims.

## **Article 6.**

(1) Provided that the parties concerned have not made a derogation from the competent authorities of the Contracting Party in whose territory the investment is situated, transfers pursuant to Article 3 (2) or (3), Article 4 or Article 5 shall be effected without delay and with regard to current transactions On the date of the transfer.

(2) The rate valid for current transactions is based on the par value (par value) agreed with the International Monetary Fund and must be parity (parity) within the fluctuation margin permitted under Article IV (3) of the Agreement on the International Monetary Fund.

(3) If there is no conversion rate for a Contracting Party at the time of transfer, as defined in paragraph 2, the official rate determined by that Contracting Party for its currency in relation to the US dollar or any other freely convertible currency or gold shall be applied. Where such a price is not fixed, the competent authorities of the Contracting Party in whose territory the capital is invested shall allow a conversion rate which is fair and fair.

## **Article 7.**

(1) If the legislation of a Contracting Party or obligations under international law which exist between the contracting parties or which are established in the future are governed by a general or special regulation which gives the investments of the nationals or companies of the other Contracting Parties more favorable treatment than under this Treaty Is to be granted, this provision shall be governed by this Treaty in so far as it is more favorable.

(2) Each Contracting Party violates any other obligation which it has assumed in respect of investments in its territory by nationals or companies of the other Contracting Parties.

## **Article 8.**

(1) The term "investments" encompasses all assets, in particular but not exclusively:

- a) Ownership of movable and immovable property and other rights in rem such as mortgages, liens or the like, acquired or justified in accordance with the legislation of the country in which the investment is located;
- b) Rights of participation in companies, and other kinds of participation,
- c) Claims for money or services having an economic value;
- d) Copyright, industrial property rights, technical procedures, in particular patents, trade names and goodwill;
- e) Concessions and concessions.

A change in the form in which assets are invested does not affect their property as an investment, provided that the change does not conflict with the purpose of the original investment.

(2) The term "income" refers to the amounts that are attributable to an investment as a profit or interest for a certain period of time.

(3) The term "nationals"

- a) With regard to the Federal Republic of Germany:

German in the sense of the Basic Law for the Federal Republic of Germany;

b) With regard to the Republic of Ivory Coast:

[In the sense of the nationality law.

(4) The term "companies"

a) With regard to the Federal Republic of Germany:

Any legal person, any trading company or other company or association with or without legal personality who is domiciled in the territory of the Federal Republic of Germany and who is entitled under the laws to impose unlimited or unlimited liability on the part of its members, is aimed at profit or not;

b) With regard to the Republic of Ivory Coast:

Any legal person or any commercial or other company which has its registered office in the territory of the Republic of Ivory Coast and who is lawfully constituted under the laws whether or not the liability of its members, members or members is restricted or unrestricted and whether its activity is directed to profit or not ,

## **Article 9.**

This contract shall also be subject to investments made by nationals or companies of one Contracting Party in accordance with the legislation of the other Contracting Party in its territory before the entry into force of this Treaty. The agreement of 27 February 1953 on German foreign debt shall remain unaffected.

## **Article 10.**

Each Contracting Party grants national treatment under this Treaty on account of the fact that, in the same matters, treatment by the other Contracting Party is granted by the other Contracting Party.

## **Article 11.**

(1) Disputes concerning the interpretation or application of this Treaty shall be settled by the Governments of the two Contracting Parties.

(2) If a dispute can not be settled in this way, it shall be submitted to an arbitration court at the request of one of the two contracting parties.

(3) The arbitral tribunal shall be constituted on a case-by-case basis by appointing a member to each of the Contracting Parties, and both members as members of a third State as chairman to be appointed by the Governments of the two Contracting Parties. The members shall be appointed within two months to order the chairman within three months after the one party to the agreement has informed the other that they intend to submit the dispute to an arbitration court.

(4) If the deadlines set out in paragraph 3 are not met, in the absence of any other agreement, each Contracting Party may ask the President of the International Court of Justice to make the necessary appointments. If the President has the nationality of either Contracting Party 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 either Contracting Party or if he is also prevented from attending, the next member of the Court of Justice who is not a national of either Contracting Party shall make the appointments.

(5) The arbitral tribunal shall decide by a majority of votes. Its decisions are binding. Each Contracting Party shall bear the costs of its Member and its representation in the proceedings before the Arbitral Tribunal; All other costs shall be borne equally by the two Contracting Parties. The arbitral tribunal may adopt a different cost regime. Moreover, the arbitral tribunal shall regulate its own procedures.

(6) If both Contracting Parties are members of the Convention on the Settlement of Investment Disputes between States and Nationals of 14 October 1966, the above-mentioned arbitration can not be invoked with regard to the provisions of Article 27 (1) of this Convention. The company of a Contracting Party and the other Contracting Party, an agreement has been concluded in accordance with Article 25 of the Convention. The possibility of calling the arbitral tribunal provided for in the event of failure to comply with a judicial decision of the Arbitral Tribunal of the said Convention (Article 27) or, in the case of a transfer by force of law or by virtue of a legal transaction pursuant to Article 5, shall remain unaffected.

## **Article 12.**

The provisions of this Agreement shall also remain in force in the event of disputes between the Contracting Parties, without prejudice to the right to take temporary measures which may be permitted on the basis of the general rules of international law. Measures of this kind will be lifted no later than the actual end of the dispute, regardless of whether diplomatic relations are restored.

## **Article 13.**

This Agreement shall apply to the Land of Berlin, except for the provisions of Protocol 7, relating to aviation, unless the Government of the Federal Republic of Germany makes a contrary declaration to the Government of the Republic of the Ivory Coast within three months after the entry into force of this Treaty ,

## **Article 14.**

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

(2) This Treaty shall enter into force one month after the exchange of the instruments of ratification. It shall remain in force for a period of ten years and shall be extended indefinitely unless terminated in writing. After ten years, the contract may be terminated at any time but remains in force for one year after termination.

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

DONE at Bonn, on October 27, 1966, in four copies, two in German and two in French, each text being equally authentic

For the Federal Republic of Germany

Carstens

For the Republic of the Ivory Coast

Arsène Usher Assouan

## **Protocol**

Upon the signing of the Treaty on the Encouragement and Mutual Protection of Capital Investments between the Federal Republic of Germany and the Republic of the Ivory Coast, the undersigned Plenipotentiaries have further agreed upon the following arrangements which shall be considered as forming an integral part of the Treaty

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

Investments made in accordance with the legislation of one of the Contracting Parties within the scope of its law by nationals or companies of the other Contracting Party shall enjoy the full protection of this Treaty.

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

(a) Activities within the meaning of paragraph 2 of Article 2 shall include, but not be limited to, the administration, use and enjoyment of an investment. "Less favourable treatment" within the meaning of paragraph 2 of Article 2 shall include any restriction on the purchase of raw and auxiliary materials, energy and fuel, and means of production and operation of any kind, any impediment to the sale of products within the country and abroad, and any other measures having a similar effect.

Measures taken for reasons of public safety, order, health or morality shall not be considered as "less favourable treatment" within the meaning of Article 2.

(b) Paragraph 2 of Article 2 shall not apply to entry, residence and employment as an employee.

### 3. Ad Article 3

The provisions of paragraph 2 of Article 3 shall also apply to the transfer of a capital investment into public ownership, its placing under public control or similar interventions by public authorities. Expropriation" means the withdrawal or limitation of any property right which, alone or together with other rights, constitutes a capital investment.

### 4. Ad Article 4

A "liquidation" within the meaning of section 4 shall also include any disposition effected for the purpose of relinquishing all or part of the investment.

### 5. Ad Article 6

Any transfer that takes place within the time period normally required for compliance with the transfer formalities is considered to be effected "without delay" within the meaning of paragraph 1 of Article 6. The time limit shall begin to run on the date of the filing of a request therefor and shall in no case exceed two months.

### 6. Ad Article 8

(a) The proceeds of the investment and, in case of reinvestment, the proceeds of their reinvestment shall enjoy the same protection as the investment.

(b) Without prejudice to other procedures for determining nationality, any person who holds a national passport issued by the competent authorities of the Contracting Party in question shall be deemed to be a national of a Contracting Party.

### 7.

Each Contracting Party shall refrain from taking measures contrary to the principles of free competition and likely to eliminate or hinder the participation of the maritime or air navigation of the other Contracting Party in the transport of goods intended for capital investments within the meaning of this Treaty, or of persons whose transport takes place in connection with such investments. This provision shall also apply to goods acquired in the territory of a Contracting Party or of a third State with funds from an enterprise in which property has been invested within the meaning of this Treaty, and to persons whose transportation is carried out on behalf of such an enterprise.

DONE at Bonn, this 27th day of October 1966, in four copies, two of which are in German and two in the French language, each text being equally authentic.

For the Federal Republic of Germany

Carstens

For the Republic of the Ivory Coast

Arsène Usher Assouan

The Minister of Foreign Affairs of the Republic of Côte d'Ivoire

Bonn, 27 October 1966

Dear Minister

With reference to the Treaty signed today between the Republic of the Ivory Coast and the Federal Republic of Germany on the encouragement and mutual protection of capital investments, I have the honour to communicate to you the following capital investments, I have the honor to communicate to you the following:

"In order to facilitate the operations and encourage the development of capital investments made by German nationals or companies, the Republic of Côte d'Ivoire will grant German nationals who, in connection with capital investments made by German nationals or companies in the Republic of Côte d'Ivoire, wish to enter, stay or work in the Republic of Côte d'Ivoire. the Republic of the Ivory Coast, the necessary authorizations, unless for reasons of order, security and safety of public order, security and health or morality do not oppose it.

Please accept, Mr. Minister, the expression of my highest consideration.

Arsene Usher Asouan

His Excellency

Minister of Foreign Affairs of the Federal Republic of Germany

Dr. Gerhard Schroede