

# **Treaty between the Republic of Rwanda and the Federal Republic of Germany on the encouragement of capital investments**

THE FEDERAL REPUBLIC OF GERMANY AND THE REPUBLIC OF RWANDA

DESIRING to deepen economic integration between their two Member States,

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

RECOGNIZING that the promotion of these investments is likely to stimulate private economic initiatives and increase the prosperity of both peoples -

HAVE AGREED AS FOLLOWS:

## **Article 1.**

Each Contracting Party shall, in accordance with its legislation, permit the investments of nationals and companies of the other Contracting Parties in its territory, promote such investments wherever possible, and shall consider the granting of the necessary authorizations with due diligence.

## **Article 2.**

Each Contracting Party shall, in its territory, become the nationals and companies of the other Contracting Parties in respect of the investments, investments, investments, investment, business, administration, use and use of such investments As their own nationals and companies or nationals and companies of third States.

## **Article 3.**

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

(2) Investments of nationals and 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 shall be equal to the value of the expropriated investment at the time of expropriation, and shall be immediately established and paid; It must in fact be usable and freely transferable. The legality of the expropriation and the amount of the compensation must be able to be verified by ordinary proceedings.

(3) Suffer nationals and companies of a contracting party by war or other armed conflicts. Revolution or turmoil in the territory of the other Contracting Parties, they shall be treated less favorably than their own nationals and companies by the Contracting Party in respect of repayments, severance payments, compensation or other compensation. With regard to the transfer of such services, the Contracting Parties mutually agree not to treat the rights of the nationals and companies of the other Contracting Parties more unfavorably than the corresponding rights of the nationals and companies of a third State.

(4) Paragraphs 1, 2 and 3 shall also apply to income from investments.

## **Article 4.**

Each Contracting Party shall, in accordance with point 4 (a) of the Protocol to this Treaty, provide to the nationals and companies of the other Contracting Parties the transfer of capital and income, and in the case of liquidation the transfer of the proceeds.

## **Article 5.**

If a Contracting Party is seized from a guarantee for an investment which has been approved under point 1 (b) of the Protocol to this Treaty, it shall be entitled, without prejudice to its rights under Article 10, to exercise the rights conferred by its law or by its predecessor (Transferred rights) on the same terms as the latter. Article 3 (2), (3) and (4) and Article 4 shall apply mutatis mutandis to the transfer of the payments to be made to the Contracting Party on the basis of the transfer.

## **Article 6.**

(1) In so far as the parties concerned are not subject to a derogation with the approval of the competent authorities of the Contracting Party in whose territory the investment is situated, transfers pursuant to Article 3 (2), (3) and (4) shall be effected without delay and in accordance with Article 4 or Article 5 Transactions on the day 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, in respect of a Contracting Party on the date of the transfer, there is no currency exchange rate within the meaning of 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 investment is situated shall allow a conversion rate which is fair and fair.

## **Article 7.**

If, under the legislation of a Contracting Party or international obligations which exist between the Contracting Parties or which are established in the future, a provision is provided whereby the capital investments of the nationals and members of the other Contracting Party are treated more favorably than under this Treaty The provisions of this Agreement shall remain unaffected. Each Contracting Party shall comply with 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" covers all assets including all rights and interests.

(2) The term "earnings" means those amounts which, within a certain period, are deemed to be a gain or interest on an investment.

(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) As regards the Republic of Rwanda:

Natural persons who are, according to the laws and other legislation on the Rwandan nationality of Rwanda.

(4) The term "company" means any legal person, as well as a trading company or other company or association, with or without legal personality, which has its seat in the territory of one of the contracting parties and which is lawfully governed by the law, whether or not the liability of its shareholders, members or members Unrestricted and whether or not their activity is directed to profit.

## **Article 9.**

This contract shall also be subject to investments made by nationals and companies of one Contracting Party in accordance with the laws of the other Contracting Parties in its territory since 1 July 1962.

## **Article 10.**

(1) Any disputes concerning the interpretation or application of this Agreement shall, as far as possible, 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; The costs of the chairman and the other costs are 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.

## **Article 11.**

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 termination of the dispute, irrespective of whether the diplomatic relations are restored.

## **Article 12.**

This Agreement shall also apply to the Land of Berlin, with the exception of the provisions relating to aviation, unless the Government of the Federal Republic of Germany makes a contrary declaration to the Government of the Rwanda within three months after the entry into force of this Treaty.

## **Article 13.**

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

(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 it is terminated in writing by one of the two Contracting Parties a year before its expiry. 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 12 shall be valid for twenty years from the date of termination of this contract.

DONE at Kigali, this 18th day of May 1967, in four copies, two in the German language and two in the French language, each text being equally authentic.

For the Federal Republic of Germany:

Steinbach

For the Republic of Rwanda:

Thaddé Bagaragaza

## **Protocol**

Upon signing the Treaty on the Encouragement of Capital Investments, concluded between the Republic of Rwanda and the Federal Republic of Germany, the undersigned Plenipotentiaries have further agreed on the following arrangements which shall be considered as an integral part of the Treaty:

#### 1. Ad Article 1

(a) Each Contracting Party may, in accordance with its legal and regulatory provisions, decide, within the framework of Article 1, whether it will grant the necessary authorizations.

(b) As long as the legal or regulatory provisions of a Contracting Party require, in the case of capital investments of foreign nationals or companies, an approval or admission procedure, the provisions of this Treaty shall apply to a particular capital investment only after notification by the above-mentioned Contracting Party to the other Contracting Party that the relevant approval or admission procedure has been completed. At the time of notification such capital investment shall enjoy the full protection of this Treaty.

#### 2. Ad Article 2

a) aa) The following are considered as "less favourable conditions" within the meaning of Article 2: restrictions on the acquisition of raw and auxiliary materials, of motive power and fuel, and of means of production and operation of any kind, any hindrance to the sale of products within the country and abroad, and any other measures having similar effects.

bb) On the other hand, measures taken for reasons of public safety, health, order or morality, the intervention of which was necessary, shall not be considered as less favorable conditions within the meaning of Article 2.

(cc) It is understood that measures of a Contracting Party aimed at the functional reorganization of particular sectors of the national economy shall not be considered as "less favorable conditions" within the meaning of Article 2, provided that such measures are equally applied to its own nationals and companies and to the nationals and companies of other Contracting Parties.

b) Article 2 shall not apply to the entry, stay and employment as an employee.

(c) Each Contracting Party may, in the interest of its national economy and when approving or admitting a capital investment by nationals or companies of the other Contracting Party, agree in the act of approval or admission to special conditions concerning:

aa) the administration of the capital investment,

bb) economic activity,

(cc) the reinvestment of the proceeds of the capital investment,

dd) vocational training and employment of its own nationals.

To the extent that such conditions are agreed upon, the provisions of Article 2 shall not apply. Such conditions shall, however, be valid only if the derogatory measures contained therein are explicitly specified and their terms and conditions laid down in the notification referred to in paragraph b of number 1 of this Protocol.

#### 3. Ad Article 3

a) The provisions of the second paragraph of Article 3 are also applicable to the transfer of a capital investment into public ownership, its placing under public control or similar interventions by the State. Expropriation means the withdrawal or limitation of any property right constituting a capital investment, alone or in conjunction with other rights.

(b) It is understood that the application of national law in punitive and fiscal matters does not constitute expropriation within the meaning of the second paragraph of Article 3.

#### 4. Ad Article 4

a) In the Republic of Rwanda, the free transfer of capital investments will only be guaranteed to those whose contribution to the economic development of the country will have been previously recognized by a special act of approval. Consequently, the provisions of Article 4 shall only be applied to capital investments made by German nationals and companies after the guarantee of free transfer has been communicated in the notification provided for in paragraph b) of number 1 of this Protocol. The above provisions do not preclude possible agreements or commitments on transfer of investments other than those referred to above.

b) Any alienation effected with a view to relinquishing all or part of the investment shall also be considered a liquidation

within the meaning of Article 4.

#### 5. Ad Article 6

Any transfer that takes place within the normal time period necessary for the completion of the transfer formalities is considered to be carried out without undue delay within the meaning of the first paragraph of Article 6. The time limit shall start from the date of submission of the request for transfer with a file containing all the necessary supporting documents and shall not exceed two months.

#### 6. Ad Article 8

(a) As long as a Contracting Party uses the procedure provided for in paragraph 1(b) of this Protocol, the provisions of this Treaty shall apply only to property, including rights and interests, which are within the scope of the activity to which the notification refers.

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

7. Each Contracting Party shall refrain from taking any measures contrary to the principles of free competition and likely to eliminate or hinder the participation of the sea and air navigation of the other Contracting Party in the transportation of goods intended for capital investment within the meaning of this Treaty. 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 capital is invested within the meaning of this Treaty.

Done at Kigali, this 18th day of May 1967, in four copies, two in the French language and two in the German language, each text being equally authentic.

For the Rwandan Republic

Thaddé Bagaragaza

For the Federal Republic of Germany

Steinbach

## Exchange of Letters

The Minister of Foreign Affairs of the Rwandan Republic

Kigali, May 18, 1967

Your Excellency,

Referring to the Treaty signed today between the Republic of Rwanda and the Federal Republic of Germany on the encouragement of capital investments, I have the honor to inform you of the following

In order to facilitate the operations and encourage the development of capital investments made by German nationals or companies, the Rwandan Republic will grant the necessary authorizations to German nationals who, in connection with capital investments made by German nationals or companies in the Rwandan Republic, wish to enter, reside and work in the Rwandan Republic, unless reasons of public order, security, health or morality prevent them from doing so.

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

Thaddé Bagaragaza

His Excellency

Ambassador of the Federal Republic of Germany

The Ambassador of the Federal Republic of Germany

Kigali, May 18, 1967

Mr. Minister,

I have the honor to acknowledge receipt of your letter of today's date, which reads as follows in German translation:

(...)

Please accept, Sir, the assurance of my highest consideration.

Steinbach

To His Excellency

the Minister of Foreign Affairs of the Republic of Rwanda