

CONVENTION BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF MAURITIUS ON THE PROTECTION OF INVESTMENTS

The Government of the French Republic on the one hand, and the Government of Mauritius on the other hand,

Striving to intensify economic cooperation between the two countries.

In order for the purpose of protecting and promoting investments;

Have agreed as follows:

Article 1.

(1) For the purposes of this Convention, the term "investments" includes all categories of property including, but not limited to :

- movable and immovable property as well as all other rights in rem such as mortgages, rights of lien, etc., acquired or constituted in accordance with the law of the country in which the investment is situated,
- rights of participation in companies and other kinds of participation,
- industrial property rights, patents, trademarks and intangible elements of the business,
- company concessions granted by the public authorities, in particular concessions for the research and exploitation of mineral substances,
- all claims in respect of the above-mentioned goods and rights and the benefits relating thereto.

(2) Subject to the provisions of paragraph 2 of Article 4, the provisions of this Agreement shall also apply, as from the date of its entry into force, to investments which the nationals, companies or other legal persons of one of the Contracting States have, in accordance with the legislation of the other Contracting State, made prior to that date in the territory of the latter.

Article 2.

Investments belonging to nationals, companies or other legal persons of one of the Contracting States and situated in the territory of the other State shall enjoy, on the part of the latter State, fair and equitable treatment in respect of the exercise of professional and economic activities connected with such investments and in respect of the administration, enjoyment, and use of such investments.

Each of the Contracting States shall in any event accord to such investments the same security and protection as it accords to those of its nationals.

The professional and economic activities referred to in paragraph 1 above shall be carried on in accordance with the legal provisions of the host country.

Article 3.

Investments made in the territory of one of the Contracting States by nationals, companies or other legal persons of the other State may be expropriated only in the public interest.

On the other hand, any measures of expropriation, nationalisation or direct or indirect dispossession which may be taken in respect of such investments shall be neither discriminatory nor contrary to a specific undertaking. They must give rise to the

payment of fair compensation in an amount equal to the value of the assets expropriated, nationalized or otherwise dispossessed on the day of expropriation, nationalization or dispossession.

The amount and terms of payment of such compensation shall be determined by mutual agreement prior to the date of transfer of ownership.

Article 4.

(1) Each Contracting State shall guarantee to the nationals, companies or other legal persons of the other Contracting State the free transfer :

- of the capital invested, provided that the investment has been made in accordance with the local regulations applicable at the time of the constitution of the investment,
- interest, dividends, royalties and other income generated by the invested capital,
- compensation for expropriation, nationalisation or dispossession as provided for in Article 3 above.

(2) However, with regard to the investments referred to in paragraph 2 of Article 1, and except in the cases of expropriation, nationalisation, direct or indirect dispossession provided for in Article 3 of this Agreement, the free transfer shall not apply only to interest, dividends, royalties and other income derived from the capital invested; the transfer of the latter shall be made under conditions which shall not be less favourable than those accorded to investments by nationals, companies or other legal persons of a third State.

Article 5.

If one of the Contracting States by virtue of a guarantee given in respect of an investment made in the territory of the other Contracting State makes a payment, to its own nationals or companies or other legal persons, it is subrogated into the rights of such right of nationals and companies or other legal persons. The rights of subrogation shall also apply to the transfer of rights referred to in article 4 above.

Article 6.

In the absence of an undertaking to the contrary entered into by the nationals, companies or other legal persons referred to in Article 2 above, with the approval of the competent authorities of the Contracting State in whose territory the investment is located, the transfers referred to in Articles 4 and 5 above shall be effected without undue delay and at the rate of exchange applicable to the transactions concerned on the date of transfer and in accordance with the exchange rate rules and practices permitted by the International Monetary Fund.

Article 7.

Natural and legal persons who are nationals of one Party shall not be liable in the territory of the other Party to duties, taxes, and contributions, under any name whatsoever, other or higher than those levied on natural and legal persons who are nationals of that Party and in the same position. This provision shall not preclude the granting by each government to its own nationals of specific preferential advantages in connection with investments, provided that such advantages are not such as to distort market conditions.

Article 8.

In matters governed by this Convention, investments by nationals, companies, or other legal persons of one of the Contracting States shall benefit from any provisions more favourable than those of this Agreement which may result from the present or future legislation of the other Contracting State.

In respect of matters governed by this Convention other than those referred to in Article 7, investments by nationals, companies or other legal persons of one of the Contracting States shall also benefit from any provisions more favourable than those of this Agreement which may result from international obligations already entered into or which may be entered into by that other State with the first Contracting State or with third States.

Article 9.

Agreements relating to investments to be made in the territory of one of the Contracting States by nationals of companies or other juridical persons of the other Contracting State shall contain an obligatory clause providing that disputes relating to such investments shall be submitted, in the event that an amicable agreement cannot be reached at short notice, to the International Centre for Settlement of Investment Disputes for settlement by arbitration in accordance with the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

Article 10.

Any dispute concerning the interpretation or application of this Agreement which cannot be settled within six months by negotiation between the Contracting States shall, at the request of either State, be submitted to a three-member arbitral tribunal. Each State shall appoint one arbitrator. The two appointed arbitrators shall appoint a supernumerary arbitrator, who shall be a national of a third State.

If one of the States has not appointed an arbitrator and has not responded to the invitation addressed by the other State to make such an appointment within two months, the arbitrator shall be appointed at the request of the latter State by the President of the International Court of Justice.

If the two arbitrators are unable to agree within two months of their appointment on the choice of an umpire, the latter shall be appointed, at the request of either State, by the President of the International Court of Justice.

If, in the cases provided for in the second and third paragraphs of this Article, the President of the International Court of Justice is unable to act or if he is a national of one of the two States, the appointments shall be made by the Vice-President. If the Vice-President is prevented from attending or if he is a national of one of the two States, the appointments shall be made by the senior member of the Court who is not a national of either State.

Unless the Contracting States decide otherwise, the Court shall determine its own procedure.

The decisions of the court shall be binding on the Contracting States.

Article 11.

This Agreement is concluded for a period of ten years, renewable for the same period unless terminated in writing by either Party one year before the expiry of each period.

The provisions of this Agreement shall continue to apply for a period of 10 years from the date of expiry for investments made before that date.

Article 12.

Each Contracting State shall notify the other of the completion of the procedures required by its law for the bringing into force of this Convention.

This Convention shall enter into force on the first day of the month following the last of these notifications.

Done at Port Louis, this twenty-second day of March, one thousand nine hundred and seventy-three, in duplicate, both texts being equally authentic.

For the Government of the French Republic:

R.-L. TOUZE,

Ambassador Extraordinary and Plenipotentiary

For the Government of Mauritius:

S. RAMGOOLAM,

Prime Minister