

# **AGREEMENT ON THE RECIPROCAL ENCOURAGEMENT AND PROTECTION OF INVESTMENTS BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA**

The Kingdom of the Netherlands

And

The people's Democratic Republic of Algeria

Hereinafter referred to as the Contracting Parties,

Desiring to enhance their traditional ties of friendship and to develop and strengthen their economic relations, particularly with respect to investments made by investors of one Contracting Party in the territory of the other contracting party,

Recognizing that an agreement on the treatment to be accorded to such investments will stimulate the flow of capital and the Technology and Economic Development of the Contracting Parties and a fair and equitable treatment of investments is desirable,

Have agreed as follows:

## **Article 1.**

For the purposes of this Agreement:

a. The term means every investment asset, and particularly but not limited to:

- i. Movable and immovable property as well as any other rights in rem relating to all categories of assets;
- ii. The rights resulting from shares, stocks and other forms of participation in companies and joint ventures;
- iii. The rights of claim the rights related to other assets or rights relating to any performance having an economic value;
- iv. The rights in the field of intellectual property rights, technical processes, the good will and know-how;
- v. The rights granted by law or under contract, including concessions to prospecting, exploration, extraction and exploitation of natural resources;

b. The term investor means:

- i. A natural person possessing the nationality of a Contracting Party and making an investment in the territory of the other contracting party;
- ii. Any legal person or any other entity constituted or organized under the law of the Contracting Party and having its seat in the territory of the same Contracting Party and making an investment in the territory of the other contracting party;
- iii. Legal entities not established in accordance with the law of that Contracting Party but controlled directly or indirectly by natural persons as defined under (i) or by legal persons as defined in (ii);

c. The term territory means the land territory and territorial sea and beyond, the various areas of maritime space, over which the contracting party exercises, in accordance with their national laws and international law, sovereign rights or jurisdiction for the purposes of exploring and exploiting, conserving, research and management of natural resources of the seabed and its subsoil and natural waters above;

d. The term "income" means all amounts yielded by an investment or by the reinvestment of the returns of an investment and in particular, though not exclusively, profits, interest, dividends, royalties and other fees.

## **Article 2.**

Each Contracting Party undertakes, within the framework of its laws and regulations, to foster economic cooperation for the protection of investments made in its territory by investors of the other contracting party. subject to its right to exercise the powers conferred by its laws and regulations, each Contracting Party shall admit such investments.

## **Article 3.**

1. Each Contracting Party shall ensure fair and equitable treatment of the investments made by investors of the other Contracting Party and shall not hinder unreasonable or discriminatory measures by the management, maintenance, use, enjoyment or disposal of their investments to such investors. each Contracting Party shall accord to such investments full security and protection.

2. In particular, each Contracting Party shall accord to such investments treatment which is no less favourable than that accorded to investments made by its particular investors investors or of any third State, in any case the treatment that is the more favourable to the investor concerned.

3. If a Contracting Party has accorded special advantages to investors of any third State by virtue of agreements establishing customs unions, economic, monetary union or unions or similar institutions on the basis of agreements designed to such unions or institutions, that Contracting Party shall not be obliged to accord such advantages to investors of the other contracting party.

4. Each Contracting Party shall observe any obligation it has assumed with regard to investments made by investors of the other contracting party.

5. If the provisions of law of either Contracting Party or obligations under international law existing at present or hereafter established between the Contracting Parties shall, within the framework of additional provisions with respect to this Agreement contain rules) whether general or specific, entitling investments by investors of the other contracting party to a more favourable treatment than that provided for by the present Agreement, such rules shall prevail over this agreement to the extent that it is more favourable than the present Agreement.

## **Article 4.**

As regards taxes, duties and charges and deductions and tax exemptions, each Contracting Party shall accord to investors of the other contracting party engaged in economic activities in its territory, treatment which shall not be less favourable than that it accords to its own investors or to those of a third country under the same conditions, in any case the treatment that is the more favourable to the investors concerned.

However, may not be taken into account in this context of special tax advantages accorded by that Contracting Party:

- a. Under an agreement for the avoidance of double taxation or any other arrangement relating to taxation;
- b. By virtue of its participation in a customs union, economic union or similar institution.

## **Article 5.**

The Contracting Parties will ensure that payments arising from investment activities may be transferred. transfers shall be made without any restriction or delay in a freely convertible currency. such transfers shall include in particular, though not exclusively:

- a. Investment income;
- b. The funds necessary to replace capital assets in order to maintain or increase the investment;
- c. Funds in repayment of loans or regularly contracted for achieving the development of investment;
- d. Proceeds from the sale or liquidation of the investment;
- e. Resulting payments to a situation as referred to in article 7;

f. The salaries, wages and other remunerations received by the employees of one Contracting Party who have obtained from the other Contracting Party the corresponding work permits to an investment.

## **Article 6.**

Neither Contracting Party shall take against of investors of the other contracting party of measures depriving them of their investments directly or indirectly, unless the following conditions are met:

- a. The measures are taken in the public interest and under due process;
- b. The measures are not discriminatory or contrary to the commitments of the contracting party taking such measures;
- c. The measures are taken for the payment of just compensation. such compensation shall be commensurate with the real value of the Investment, concerned shall include interest at a normal commercial rate until the date of payment, and in order to be effective for investors, shall be paid and made transferable without delay to the designated by the investor country concerned and in the currency of the country of which they are investors or in any freely convertible currency accepted by investors.

## **Article 7.**

Investors of one Contracting Party who suffer due to a war or any other armed conflict, revolution, a national state of emergency, revolt, riot, insurrection or losses in relation to their investments made in the territory of the other Contracting Party, shall be accorded by the latter Contracting Party, as regards restitution, indemnification, compensation or other treatment indemnities, which shall not be less favourable than that accorded to investors of that Contracting Party to investors or of any third State, in any case the treatment that is the more favourable to the investors concerned.

## **Article 8.**

If the investment of an investor of one Contracting Party is insured against non-commercial risks or may be subject to the payment of damages, under the system provided for by law, regulation, any contract or by subrogation of the insurer or reinsurer or an agency designated by one of the Contracting Parties in the rights of the said investor pursuant to the terms of the insurance or any other compensation paid shall be recognized by the other contracting party.

## **Article 9.**

Each Contracting Party consents in the event that an amicable settlement within a period of three months, to submit any dispute arising between an investor and a contracting party of the other contracting party in connection with an investment made by that investor in the territory of the other contracting party, the International Centre for Settlement of Investment Disputes (ICSID) for settlement by conciliation or arbitration in accordance with the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, opened for signature at Washington on 18 March 1965. a juridical person investor of one of the Contracting Parties and where the majority of shares are owned by the emergence of the dispute, by investors of the other Contracting Party, shall be in accordance with article 25 (2) (b) of the Convention, deemed to be a national of the other contracting party for the purposes of the Convention.

## **Article 10.**

1. Any dispute between the contracting parties concerning the interpretation or application of the present Agreement, which cannot be settled within a reasonable period of time, be submitted through diplomatic channels, unless the parties otherwise agree, at the request of either party to an arbitral tribunal composed of three members. each Party shall appoint an arbitrator and the two arbitrators thus appointed shall propose by mutual agreement, as their chairman, a third arbitrator who shall not be a national of one of the two parties.
2. If a Party has not appointed its arbitrator within a period of two months from the date of receipt of the notice of arbitration, the other party may invite the President of the International Court of Justice to make the necessary appointments.
3. If within two months after their appointment, the two arbitrators are unable to agree on the appointment of the third arbitrator, either Party may invite the President of the International Court of Justice to make the necessary appointments.
4. If in the cases specified under paragraphs (2) and (3), the President of the International Court of Justice cannot discharge

the said function or if he is a national of either Contracting Party, the Vice-President shall be invited to make the necessary appointments. if the Vice-President cannot discharge the said function or if he is a national of either Contracting Party, the member of the Court next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointments.

5. The Tribunal shall act in accordance with the law. before taking its decision, it may at any stage of the proceedings the Contracting Parties to propose an amicable settlement of the dispute. the foregoing provisions shall not affect the competence of the Tribunal to decide ex aequo et bono if the parties are accord.ex aequo et bono if the parties so agree.

6. The tribunal shall determine its own procedure, unless the parties agree otherwise.

7. The tribunal shall take its decision by a majority of votes. the decision shall be final and binding on the contracting parties.

### **Article 11.**

1. The provisions of this Agreement shall also apply from the date of its entry into force, the investments made prior to that date.

2. This Agreement shall not apply to disputes whose birth is prior to the date of its entry into force.

### **Article 12.**

Each Contracting Party may propose to the other party for consultations on any matter concerning the interpretation or application of this Agreement. the other Contracting Party shall give favourable consideration to such a request and shall take all appropriate measures for such consultation.

### **Article 13.**

In respect of the Kingdom of the Netherlands, this accords' will apply to the part of the Kingdom located in Europe, the Netherlands Antilles and Aruba, unless the notification referred to in article 14, paragraph (1) provides otherwise.

### **Article 14.**

1. This Agreement shall enter into force on the first day of the second month following the date on which the contracting parties have notified each other in writing that the constitutionally required procedures for this purpose have been completed. this Agreement shall remain in force for a period of fifteen years.

2. If there has been notified by either contracting party at least six months before the expiration of the period of validity of the present Agreement shall be tacitly extended for a period of ten years, the contracting parties reserving the right to terminate this Agreement by notification at least six months before the expiry of the current period of validity.

3. The foregoing articles shall continue in force for investments have been made prior to the date of termination of the present Agreement, for a period of fifteen years from the date of expiry.

4. Taking into account the periods referred to in paragraph (2), the Kingdom of the Netherlands shall be entitled to terminate separately for the implementation of this agreement for each of the parts of the Kingdom.

Done at The Hague on 20 March 2007 in two originals in the Netherlands, Arabic and French languages, all texts being equally authentic, provided that the case of divergence in interpretation of the English text shall prevail.

For the Government of the Kingdom of the Netherlands F. HEEMSKERK

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