

Agreement on economic and technical co-operation between the Government of the Kingdom of the Netherlands and the Government of the Democratic Republic of the Sudan

The Government of the Kingdom of the Netherlands and the Government of the Democratic Republic of the Sudan, being desirous to strengthen their traditional ties of friendship, to promote and intensify their economic and technical relations and to encourage investments on the basis of equality and mutual benefit,

Have agreed as follows :

Article 1.

1. The two Contracting Parties undertake to promote their co-operation in the economic and technical fields.
2. The two Contracting Parties shall co-operate to facilitate the participation of their nationals in the establishment of productive and commercial activities and the provision of services in both countries.
3. Any future technical co-operation between the two countries shall be defined in special agreements or administrative arrangements.

Article 2.

1. To secure the achievement of the aims of the present Agreement, each Contracting Party undertakes within the framework of its laws, rules and regulations to authorize its nationals at their request to deliver capital goods and carry out public works for governmental and private enterprises in the territory of the other Contracting Party against payment agreed upon.
2. Each Contracting Party shall guarantee, within the framework of its laws, rules and regulations, the transfer from its territory, when due, of the sums owing to creditors, who are nationals of the other Contracting Party.

Article 3.

The two Contracting Parties shall facilitate the intensification of commercial relations between their respective countries to the highest possible extent. For that purpose they shall, within the framework of their laws, rules and regulations, further the co-operation between all companies, associations, foundations and other organizations or subsidiary bodies thereof, which are connected with the economic life in both countries including all individuals engaged in economic activities.

Article 4.

When deciding on requests for the establishment of regular civil air services the Contracting Parties shall take into consideration the importance of the greatest possible freedom in air traffic.

Accordingly, the Contracting Parties acknowledge that the best means of achieving the aim set forth in the first paragraph of this Article lies in observing the provisions of the Air Transport Agreement in force between them.

Article 5.

The Contracting Parties agree to promote the development of international shipping services. In doing so they shall maintain free and normal competitive conditions. Either Contracting Party shall refrain from taking any discriminatory measures against, and from restricting the free participation in international traffic of, vessels operated by enterprises of which the place of effective management is situated in the territory and flying the flag of the other Contracting Party.

From this arrangement shall be excepted fishery and coastal shipping in the non-European parts of the Kingdom of the Netherlands, to which only the internal regulations of these parts of the Kingdom shall apply, and fishery and coastal shipping in the Sudan.

Either Contracting Party shall accord in its ports to the vessels flying the flag of the other Contracting Party the same treatment as it accords to its own vessels. This provision applies to customs formalities, the collection of taxes, port fees and port charges, the free entry into ports, the assignment of berths, facilities for loading and unloading, and to all other facilities accorded to shipping and to economic activities in connection with vessels, their crews, their passengers and the cargoes they carry.

Article 6.

With respect to the payment of taxes, fees or charges and to the enjoyment of fiscal deductions and exemptions, each Contracting Party shall accord in its territory to nationals of the other Contracting Party engaged in any economic activity the same treatment as it accords to its own nationals.

Article 7.

Subject to the rights provided by international conventions, the nationals of either Contracting Party shall, as regards the protection of industrial property, enjoy in the territory of the other Contracting Party a protection not less favourable than that enjoyed by the nationals of the latter. Industrial property includes patents of inventions, industrial and commercial trade-marks, trade-names, industrial designs or models and the repression of unfair competition.

Article 8.

Either Contracting Party undertakes to facilitate, within the framework of its laws, rules, and regulations :

(a) The holding in its territory by the other Contracting Party of economic and commercial exhibitions and displays; the holding in its territory by the other Contracting Party of economic and commercial exhibitions and displays;

(b) The importation into its territory by the other Contracting Party of professional equipment and of material and equipment intended for technical work on behalf of governmental bodies or private enterprises and the re-exportation thereof.

Article 9.

1. Each Contracting Party shall ensure fair and equitable treatment to the investments of nationals of the other Contracting Party and shall not by means of unjustified or discriminatory measures impair the management, maintenance, use, enjoyment or disposal thereof by those nationals.

2. More particularly, each Contracting Party shall accord to such investments the same security and protection as it accords to those of its own nationals.

Article 10.

1. Either Contracting Party shall guarantee to nationals of the other Contracting Party the transfer to their country of:

(a) The net profits, interests, and royalties, accruing from any economic activity to those nationals;

(b) An appropriate portion of their earnings while they are authorized to work in its territory;

(c) Funds in repayment of loans which the Contracting Parties have recognized as investments;

(d) In the event of liquidation, the proceeds from such liquidation.

2. Subject to the laws, rules and regulations in force in each country any such transfer shall be carried out without undue restrictions or delay.

Article 11.

The investments of nationals of either Contracting Party in the territory of the other Contracting Party shall not be

expropriated except for the public benefit and against compensation. Such compensation shall represent the equivalent to the depreciated value of the investment affected, it shall be actually realizable, freely transferable, and shall be paid without undue delay.

Article 12.

Either Contracting Party, approving in its territory the making of an investment on which the other Contracting Party or a national thereof has granted any financial security against non-commercial risks, shall recognize the subrogation of the grantor of that security into the rights of the investor as to damages to the extent of any payment made.

Article 13.

The present Agreement shall apply to all investments made in the territory of the one Contracting Party by a national of the other Contracting Party irrespective of whether they were made before or after the date of the coming into force of the present Agreement.

Article 14.

1. The Contracting Parties agree to establish a Mixed Commission, composed of representatives appointed by them.
2. The Mixed Commission shall meet at the request of one of the Contracting Parties, to discuss any matters pertaining to the implementation of the present Agreement and to consider means of promoting their economic co-operation.
3. The Mixed Commission shall keep under review the development of the economic relations between the two countries, both in bilateral and multilateral contexts. It shall moreover make recommendations to the respective Governments in cases where the objectives of this Agreement might be furthered and a fuller measure of economic co-operation might be obtained.

Article 15.

For the purposes of the present Agreement :

1. The term " nationals " includes legal persons recognized by the laws of each Contracting Party in its territory.
2. The term " legal person " includes a legal person established according to the law of one Contracting Party, in the territory of that Contracting Party in respect of which, because of its being controlled by a national of the other Contracting Party, it has been agreed upon by contract that it should be treated, for the purposes of the present Agreement, as a national of the latter Contracting Party.
3. The term " investment " shall comprise every kind of asset and more particularly, though not exclusively :
 - (a) Movable and immovable property as well as any other rights in rem, such as mortgage, lien, pledge, usufruct and similar rights;
 - (b) Share or other kinds of interest in companies;
 - (c) Title to money or to any performance having an economic value;
 - (d) Copyright, industrial property rights, technical processes, trade names, and goodwill and
 - (e) Such business concession under public law, including concession regarding the prospecting for, or the extraction or the winning of natural resources, as give to their holder a legal position of some duration.

Any alteration in the form in which assets are invested shall not affect their classification as investment.

Article 16.

Where any matter is governed by both the present Agreement and other international Agreement binding on both Contracting Parties, nothing in this Agreement shall prevent a national of the one Contracting Party from benefiting by the provisions most favourable to him.

Article 17.

1. Disputes concerning the interpretation or application of the present Agreement should, if possible, be settled by the two Contracting Parties. If a dispute cannot thus be settled it shall be submitted, at the request of either party to the dispute, to an arbitral tribunal composed of three members. Each party shall appoint one arbitrator and the two arbitrators thus appointed shall together appoint an umpire who must not be a national of either party.
2. If one of the parties fails to appoint its arbitrator and has not proceeded to do so within two months after an invitation from the other party to make such appointment, the arbitrator shall be appointed, at the request of the latter party, by the President of the International Court of Justice.
3. If the two arbitrators are unable to reach agreement, in the two months following their appointment, on the choice of an umpire, the latter shall be appointed, at the request of either party, by the President of the International Court of Justice.
4. If, in the cases provided for in the second and third paragraph of this Article, the President of the International Court of Justice is prevented from discharging the said function or is a national of either party, the Vice-President shall make the necessary appointments. If the Vice-President is prevented from discharging the said function or is a national of either party, the Member of the Court next in seniority who is not a national of either party shall make the necessary appointments.
5. The tribunal shall base its decision on the provisions of the present Agreement in conformity with the principles of law. Before giving its decision, the tribunal may at any stage of the proceedings propose to the parties that the dispute be settled amicably. The foregoing provisions shall not prejudice the power of the arbitral tribunal to decide the dispute *ex aequo et bono* if the parties so agree.
6. Unless the parties decide otherwise; the tribunal shall determine its own procedure.
7. The tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding on the parties to the dispute. Each Contracting Party shall bear the costs of its own arbitrator and of its counsel in the arbitral proceedings; the cost of the umpire and the remaining costs shall be borne in equal parts by both Contracting Parties.

Article 18.

As regards the Kingdom of the Netherlands, the present Agreement shall apply to the territory of the Kingdom in Europe, to Surinam and to the Netherlands Antilles, unless the instrument of ratification of the Kingdom of the Netherlands provides otherwise.

Article 19.

1. The present Agreement shall be ratified and the instruments of ratification shall be exchanged as soon as possible at Khartoum.
2. The present Agreement shall enter into force on the date of the exchange of the instruments of ratification and shall remain in force for a period of five years. Unless notice of termination has been given by either Contracting Party at least six months before the date of the expiry of its validity, the present Agreement shall be extended tacitly for another period of five years, and so on, each Contracting Party reserving the right to terminate the Agreement upon notice of at least six months before the date of expiry of the current period of validity.
3. Subject to the periods mentioned in paragraph 2 of this Article, the Government of the Kingdom of the Netherlands shall be entitled to terminate the application of the present Agreement separately in respect of Surinam or the Netherlands Antilles.
4. Termination of the present Agreement shall not affect the validity of contracts concluded, or the validity of financial securities given, within the framework of the present Agreement prior to the date of termination.

IN WITNESS WHEREOF, the undersigned representatives, duly authorized thereto, have signed the present Agreement.

DONE at Khartoum on this day the 22nd of August 1970, in duplicate, in the English language.

For the Government of the Kingdom of the Netherlands,

(sd.) G. WEHRY

For the Government of the Democratoc Republic of the Sudan,
(sd.) G. M. HAMID