Agreement between the Swiss Federal Council and the Government of the People's Democratic Republic of Algeria on the reciprocal promotion and protection of investments

Preamble

The Swiss Federal Council

and

the Government of the People's Democratic Republic of Algeria,

hereinafter referred to as the "Contracting Parties",

Desiring to intensify economic cooperation for the mutual benefit of both States;

with the intention of creating and maintaining favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party;

recognising the need to encourage and protect foreign investment with a view to promoting the economic prosperity of both States,

have agreed to the following:

Article 1. Definitions

For the purposes of this Agreement:

(1) The term investor refers with regard to either Contracting Party:

(a) Natural persons who, after the laws of that Contracting Party, are considered to be its nationals;

(b) Legal entities, including companies registered partnerships, corporations or other organizations, which are constituted or in any other maniére organised under the laws of that Contracting Party and having their headquarters together with real economic activities, in the territory of that same Contracting Party;

(c) Legal entities which are not established under the laws of that Contracting Party but which are effectively controlled by natural persons or legal entities, respectively in accordance with subparagraph (a) and (b) of this paragraph.

(2) The term "investment" includes all categories of assets and in particular:

(a) Ownership of movable and immovable property as well as any other rights in rem, such as hypothéques guarantees and other immovable and movable easements, usufruits and similar rights;

(b) The actions, and other forms of participation shares in companies;

(c) Monetary claims and rights to any performance having economic value;

(d) Intellectual and industrial property rights, such as copyrights, patents, industrial designs or models, modéles, trademarks, trade names, indications of provenance), technical know-how, processes and clientéle;

(e) The concessions, including extract concessions to search for or exploit natural resources, as well as any other rights conferred by law, by contract or by decision of the Authority in accordance with the law.

A change in the form in which assets are invested or reinvested shall not affect their caractére investment.

(3) The term means the returns amounts derived from an investment or a reinvestment includes, interests and profits, capital gains, dividends, royalties.

(4) The term territory means the land territory, internal waters and the territorial sea of the Contracting Parties, as well as the maritime zones located au-delá thereof and over which the Contracting Party concerned exercises, in accordance with national legislation and in conformity with international law, sovereign rights or jurisdiction.

Article 2. Scope

This Agreement shall apply to investments made in the territory of a Contracting Party, in accordance with its laws and regulations by investors of the other contracting party, before or after its entry into force. it shall not, however, apply to disputes whose birth is prior to its entry into force.

Article 3. Encouragement , Admission

(1) Each Contracting Party shall promote and admit, within the framework of its laws and the provisions of this Agreement, the investments of investors of the other contracting party in its territory.

(2) Once admitted an investment of an investor of the other contracting party in its territory, each Contracting Party shall issue, in accordance with its laws, the necessary permits in connection with such investments and with the carrying out of licensing agreements, technical, commercial or administrative assistance. each Contracting Party shall endeavour to issue, whenever necessary, the required authorisations for the activities of consultants and other qualified persons étrangére of nationality.

Article 4. Protection , Treatment

(1) Returns of investments and investors of each Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security and entiéres in the territory of the other contracting party. neither of the contracting parties does not affect any maniére by unjustified discriminatory measures or the management, maintenance, use, enjoyment, increased or disposal of such investments.

(2) Each Contracting Party shall accord in its territory to returns of investments and investors of the other contracting party treatment no less favourable than that which it accords to its own and returns of investments or investors to returns of investments and investors of any third State, more favourable treatment to the investor concerned is crucial.

(3) Each Contracting Party shall accord to investors in its territory of the other contracting party, as regards the management, maintenance, use, enjoyment or disposal of their investments, treatment no less favourable than that which it accords to its own investors to investors or of any third State, more favourable treatment to the investor concerned is crucial.

(4) If a Contracting Party accords special advantages to investors of any third State by virtue of an agreement establishing a Free Trade Area (libreéchange douaniére union, a common market or a or by virtue of an agreement for the avoidance of double taxation, it shall not be obliged to accord such advantages to investors of the other contracting party.

Article 5. Transfer

(1) Each Contracting Party in whose territory of investors of the other Contracting Party has made investments will accord to such investors the transfer without delay and in a freely convertible currency of amounts relating to these investments, including:

(a) Income;

(b) Payments relating to loans or other obligations for such investments;

(c) The proceeds of the sale of or the partial or total liquidation of the investment, including possible value;

(d) Royalties and other payments deriving from rights enumerated in article 1, paragraph (2), let. (C), (d) and (e) of this Agreement;

(e) The amounts necessary for the maintenance or development of the investments.

(2) The transfers shall be made at the rate of exchange applicable on the date of transfer pursuant to the exchange of

regulations in force the Contracting Party in whose territory the investment has been made.

(3) To prevent any ambiguity, it is confirmed that the right of an investor to freely transfer payments related to its investment does not exempt the payment of tax obligations.

Article 6. Dispossession , Compensation

(1) Neither Contracting Party shall take, directly or indirectly, measures of expropriation, nationalization or any other measures having the same caractére or the same effect, in respect of investments made by investors of the other contracting party except for a public purpose and on condition that such measures are not discriminatory, that they conform to the legislation and provide for payment of adequate and effective compensation. compensation shall correspond to the market value of the expropriated investment immediately before the expropriation was taken or they are known to the public, the first of those events in determining. it shall be paid in the currency of the country of origin of the investment or in any other currency agreed by the investor. it shall be paid without delay and be freely transferable. in case of delay payment, shall include interest at a rate established on the commercial market basis starting from the date of expropriation until the date of payment.

(2) Investors of one Contracting Party whose investments have suffered losses owing to war or to other armed conflict, revolution, rebellion or state of emergency, which took place in the territory of the other contracting party benefit, on the part of this derniére treatment, in accordance with article 4 of this Agreement as regards restitution, indemnification, compensation or other settlement.

Article 7. Subrogation

If a Contracting Party makes a payment under an indemnity, under a law or a contract for an investment by one of its investors in the territory of the other contracting party, this derniére recognize the right of the contracting part 1, by virtue of subrogation to exercise the rights and enforce the claims of that investor in relation to such an investment.

Article 8. Disputes between a Contracting Party and an Investor of the other Contracting Party

(1) Disputes relating to investments between a Contracting Party and an investor of the other Contracting Party shall be settled as far as possible through consultation between the parties concerned.

(2) If these consultations do not in a solution within six months from the date of notification of the request, to initiate the investor may either submit the dispute to the competent courts of the Contracting Party in whose territory the investment has been made or to international arbitration. in the latter case, the investor shall have the choice between:

(a) An ad hoc arbitral tribunal which, unless the parties to the dispute otherwise agree, be established on the basis of the Arbitration Rules of the United Nations Commission on United Nations Commission on International Trade Law (UNCITRAL); or

(b) The International Centre for the Settlement of Investment Disputes (ICSID), established by the Convention on the Settlement of Investment diffé-rends between States and Nationals of Other etats1, opened for signature at Washington on 18 March 1965.1, opened for signature at Washington on 18 March 1965.

(3) Each Contracting Party gives its consent to the submission of a dispute to arbitration in accordance with the provisions of this article.

(4) The Contracting Party which is a party to the dispute may, at any stage of the proceedings, assert its immunity or the fact that the investor has received pursuant to an insurance contract, compensation covering the whole or part of the loss or damage sustained.

(5) Neither Contracting Party shall pursue through diplomatic channels a dispute submitted to international arbitration, at least that the other contracting party does not comply with the arbitral award.

(6) The arbitral award shall be final and binding upon the parties to the dispute and shall be executed according to the national legislation.

Article 9. Disputes between the Contracting Parties

(1) Disputes between the contracting parties relating to the interpretation or application of the provisions of this Agreement shall be settled through diplomatic channels.

(2) If the contracting parties fail to arrive at a settlement within six months after the beginning of the dispute arises, the latter shall be submitted, at the request of either contracting party to an arbitral tribunal composed of three members. each Contracting Party shall appoint an arbitrator. the two arbitrators so nominated shall appoint a chairman who shall be a national of a third State.

(3) If one of the Contracting Parties has not appointed its arbitrator and has not followed the invitation of the other contracting party to make within two months in such designation, the arbitrator shall be appointed at the request of the derniére Contracting Party by the President of the International Court of Justice.

(4) If the two arbitrators cannot reach an agreement about the choice of the Chairman within two months after their appointment the latter shall be appointed upon the request of either Contracting Party by the President of the International Court of Justice.

(5) If in the cases specified in paragraph (3) and (4) of this article, the President of the International Court of Justice is prevented from carrying out this function or if he is a national of either Contracting Party, the appointment shall be made by the Vice-President and if the latter is prevented or if he is a national of either Contracting Party, they will be made by the most senior member of the International Court of Justice who is not a national of either Contracting Party.

(6) Unless the Contracting Parties decide otherwise, the tribunal shall determine its own rules of procedure.

(7) The decisions of the Tribunal shall be final and binding on the contracting parties.

Article 10. Other Commitments

(1) If the provisions of the legislation of a Contracting Party or of commitments undertaken by the parties under international agreements to accord investments of investors of the other contracting party to more favourable treatment than is provided for by the present Agreement, such rules and commitments shall take precedence over the latter in so far as they are more favourable.

(2) Each Contracting Party shall observe at all its obligations in respect of investments made in its territory by investors of the other contracting party.

Article 11. Final Provisions

(1) This Agreement shall enter into force on the date on which the contracting parties have notified each other of the completion of the internal constitutional procedures necessary to that effect. the date of entry into force shall be the derniére notification.

(2) This Agreement shall be valid for an initial period of fifteen (15) years; after the term, it shall remain in force for successive periods of five (5) years, at least one of the Contracting Parties denounces it, with written notice of six (6) months before the expiration of a period of validity.

(3) In the event of termination, the provisions of articles 1 to 10 of this Agreement shall continue to apply for a further period of fifteen (15) years for the investments made prior to the termination of the Agreement.

Done at Bern, 30 November 2004, in two originals, in the Arabic and French languages, both texts being equally authentic.

For the Swiss Federal Council:

Joseph Deiss

For the Government of the People's Democratic Republic of Algeria:

Abdellatif Benachenhou