

# **Agreement between the Federal Republic of Germany and the Republic of Angola on reciprocal investment promotion and protection**

The Federal Republic of Germany and the Republic of Angola,

Encouraged by the desire to deepen economic cooperation between the two countries,

Desiring to create favorable conditions for investments by investors of one State in the territory of the other State,

Recognizing the fact that the promotion and the contractual protection of these investments are capable of stimulating private economic initiatives and increasing the prosperity of the two peoples,

Have agreed as follows:

## **Article 1. Definitions**

For the purposes of this Treaty

### **1. The term "investor"**

a) In relation to the Federal Republic of Germany:

- Germans within the meaning of the Basic Law for the Federal Republic of Germany,
- any legal person or any commercial or other company or association with or without legal personality established in the territory of the Federal Republic of Germany, whether or not its activity is directed at profit,

b) In respect of the Republic of Angola:

- any natural person who is a citizen of the Republic of Angola under the legislation of the Republic of Angola and who carries out an investment in the territory of the Federal Republic of Germany,
- any legal person established under the legislation of the Republic of Angola and which carries out an investment in the territory of the Federal Republic of Germany;

2. The term "investments" means assets of any kind invested by an investor of the one Contracting Party in the territory of the other Contracting Party in accordance with its laws and regulations, in particular but not exclusively

- a) Ownership of movable and immovable property as well as other rights in rem such as mortgages and liens;
- b) Share rights in companies and other types of participations in companies;
- c) Claims on money used to create an economic value or claims on an economic value;
- d) Intellectual property rights, in particular copyrights, patents, utility models, industrial designs, trade names, business and business secrets, technical procedures, know-how and goodwill;
- e) Public-law concessions, including concession and concession concessions;

A change in the form in which assets are invested does not affect their property as an investment;

3. The term "income" means the amounts accruing to an investment, such as profit shares, dividends, interest, royalties or other charges;

4. The term 'territory' shall mean the territory of the Contracting Party concerned, including the exclusive economic zone

and the mainland base, in so far as the international law of that Contracting Party permits the exercise of sovereign rights or sovereign powers in those territories.

## **Article 2. Scope of Application**

The provisions of this Agreement shall apply to all investments made before or after its entry into force, but not to differences of opinion which arose prior to its entry into force.

## **Article 3. Promotion and Protection of Investments**

(1) Each Contracting Party shall, as far as possible, promote the investments of investors of the other Contracting Parties in its territory and permit such investments in accordance with its laws.

(2) Investments made by investors of a Contracting Party shall in any case be treated fairly and fairly in the territory of the other Contracting Parties.

(3) A Contracting Party shall in no way interfere with the management, maintenance, use, use or disposal of the investments of investors of the other Contracting Parties in its territory by means of arbitrary or discriminatory measures.

(4) Within the framework of their national legislation, the Contracting Parties shall examine the application for the entry and residence of persons of one Contracting Party who wish to enter the territory of the other Contracting Party in connection with an investment; The same shall apply to employees of the one Contracting Party who enter the territory of the other Contracting Party in the context of an investment and wish to reside there in order to pursue an activity as an employee. Applications for the approval of work are also examined with due diligence.

(5) In the case of carriage of goods and persons in connection with an investment, a Contracting Party shall neither eliminate or hinder the transport companies of the other Contracting Parties and, if necessary, issue authorizations for carrying out the transports.

## **Article 4. National Treatment and Most-favored-nation Treatment**

(1) Each Contracting Party treats investments of investors from the other Contracting Parties no less favorably than the investments of its own investors or investors of third States.

(2) With regard to the management, maintenance, use, use or disposal of investments, both Contracting Parties shall treat the investors of the other Contracting Parties no less favorably than their own investors or investors of third countries.

(3) The provisions in paragraphs 1 and 2 do not oblige a contracting party to grant advantages to the investors of the other contracting parties

a) Membership in a customs or economic union, a common market, a free trade area or similar international economic cooperation agreements or their association with it,

b) A double tax treaty or other international tax treaties.

(4) For the purposes of this Article, the term "less favorable treatment" shall include in particular: the difference in treatment in the case of restrictions on the supply of raw and auxiliary materials, energy and fuels, and all kinds of production and operating supplies, As well as other measures with a similar effect. Measures to be taken for reasons of public security and order, public health or morality shall not be considered as "less favorable" treatment within the meaning of this Article.

(5) This article does not require a contracting party to extend tax advantages, exemptions and reductions granted under the tax laws only to investors resident in its territory to investors resident in the territory of the other Contracting Party.

## **Article 5. Expropriation and Compensation**

(1) Investments made by investors of a Contracting Party and income therefrom shall enjoy full protection and full security in the territory of the other Contracting Parties.

(2) Investments made by investors of a Contracting Party may be directly or indirectly, in the territory of the other Contracting Parties, expropriated directly or indirectly, nationalized, or subject to other measures equivalent to expropriation or nationalization.

The compensation must correspond to the value of the expropriated investment immediately before the date on which the actual or imminent expropriation, nationalization or comparable measure became publicly known. The compensation must be paid without delay and is payable at the usual bank interest rate until the time of payment; It must in fact be usable and freely transferable. At the latest at the time of expropriation, nationalization or comparable measure must be taken in an appropriate manner for the determination and performance of the compensation provision. The investor has the right to have the legality of the expropriation, nationalization or comparable measure and the amount of compensation reviewed before the competent court of the Contracting Party in whose territory the investment was made in accordance with the principles of international law.

(3) Investors in a Contracting Party who suffer losses from investments in the territory of the other Contracting Party through war or other armed conflicts shall be treated no less favorably by the Contracting Party with regard to reimbursements, indemnities, compensation or other consideration than their own investors. Such payments must be freely transferable.

(4) In respect of the matters governed by this Article, the investors of a Contracting Party shall enjoy most-favored-nation treatment in the territory of the other Contracting Party.

## **Article 6. Transfer**

(1) Each Contracting Party guarantees to the investors of the other Contracting Parties, after fulfilling the tax obligations, the free transfer of payments in connection with an investment, in particular

- a) Of the initial capital and additional amounts for the maintenance or expansion of the investment;
- b) Of current income;
- c) To repay loans;
- d) Of the proceeds from the full or partial sale or liquidation of the investment;
- e) Of the compensation provided for in Article 5.

(2) Transfers pursuant to paragraph 1 shall be effected without delay at the exchange rate customary on the date of the transfer in accordance with the applicable foreign exchange legislation of the Contracting Party in whose territory the investment is made.

(3) If there is no foreign exchange market, the cross rate is the rate of exchange resulting from the conversion rates that the International Monetary Fund would use as the basis for the conversion of the currencies into special drawing rights.

(4) For the purposes of this Article, a transfer shall be deemed "immediate" if it is carried out within a period normally required for compliance with the transfer formalities. The deadline begins with the submission of a corresponding application and may under no circumstances exceed two months.

## **Article 7. Subrogation**

If a Contracting Party makes payments to its investors on the basis of a guarantee for an investment in the territory of the other Contracting Party, this other Contracting Party shall recognize the transfer of all rights or claims of such investors by law or by virtue of legal transactions, without prejudice to the rights of the former Contracting Party pursuant to Article 8 The former Contracting Party. Furthermore, the other Contracting Party shall recognize the entry of the former Contracting Party into all such rights or claims (transferred claims) which the former Contracting Party is entitled to exercise to the same extent as its predecessor. Article 5 (2) and (3) and Article 6 shall apply mutatis mutandis to the transfer of payments on the basis of the transferred claims.

## **Article 8. Disputes between the Contracting Parties**

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Treaty shall, as far as possible, be settled by the Governments of the two Contracting Parties.

(2) If a disagreement cannot be settled in this manner within six months, it shall be submitted to an arbitration board 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 are to appoint the chairman within two months within a period of two months after the one party to the agreement has notified 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 one of the two contracting parties or if he is also prevented from doing so, the next member of the Court who is not a national of one of the two contracting parties shall make the appointments.

(5) The President of the Arbitral Tribunal shall be a national of a State with which both Contracting Parties maintain diplomatic relations.

(6) The arbitral tribunal shall decide by a majority of votes. Its decisions shall be final and binding.

(7) 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. In addition, the arbitral tribunal shall regulate its own procedures.

## **Article 9. Disputes between a Contracting Party and an Investor of the other Contracting Parties**

(1) Differences of opinion regarding investments between an investor of the one contracting party and the other contracting parties shall be settled amicably between the parties as far as possible.

(2) If a disagreement under paragraph 1 cannot be settled within six months from the date of their assertion by one of the two parties, the investor may submit the disagreement:

a) The competent courts of the Contracting Party in whose territory the investment is situated,

b) An ad hoc arbitral tribunal established under the United Nations Commission on International Trade Law (UNCITRAL)

c) The International Center for the Settlement of Investment Disputes pursuant to the Convention of 18 March 1965 on the Dispute Settlement between States and Nationals of Other States (ICSID), provided that both Contracting Parties are members of this Convention,

d) The center in accordance with the rules on the "supplementary arrangements for the handling of complaints by the Secretariat of the Center", provided that at least one Contracting Party is a member of the Convention referred to in point (c).

(3) If an investor of the Federal Republic of Germany has invoked a domestic court of the Republic of Angola, the dispute may be submitted to an international arbitral tribunal only if the domestic Angolan court has not yet ruled.

(4) An investor of the Republic of Angola, which has a capital investment in the Federal Republic of Germany, may call an International Arbitration Court by means of a German court before or after the material decision of the dissension.

(5) The Contracting Party involved in the dispute cannot argue as an objection during the procedure or the execution of an arbitration award that the investor has received compensation for part of the damage or the total damage resulting from insurance.

(6) No Contracting Party shall grant diplomatic protection or a claim under international law in respect of a disagreement which one of its investors and the other Contracting Party intends to submit to or submit to the arbitration procedure under the Convention referred to in paragraph 2 (c), unless the other Shall not comply with the arbitration award in the disagreement.

(7) Informal diplomatic steps, which are simply aimed at facilitating the resolution of disagreement, are not covered by the concept of diplomatic protection within the meaning of paragraph 6.

(8) The arbitration award shall be binding and shall not be subject to an appeal or other means of redress other than those referred to in paragraph 2 of this Article. It shall be executed in accordance with the national law of the Contracting Party in whose territory the investment in question is situated.

## **Article 10. Other Regulations**

(1) If the legislation of a Contracting Party or obligations under international law which exist between the Contracting Parties or which are established in the future are governed by a general or special regulation which grants the investors of the other Contracting Parties more favorable treatment than under this Treaty, This provision shall be governed by this Treaty in so far as it is more favorable.

(2) Each Contracting Party shall comply with any other obligation which it has assumed in respect of investments in its territory by investors of the other Contracting Parties.

## **Article 11. Consultations**

The Contracting Parties shall, where necessary, carry out consultations on the application of this Treaty.

## **Article 12. Entry Into Force, Duration and Termination of this Agreement**

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

(2) This Treaty shall enter into force one month after the exchange of both instruments of ratification. It remains in force for ten years; After the expiry of which the validity shall be extended to an indefinite period unless one of the two Contracting Parties terminates the contract in writing by a twelve-month deadline by diplomatic means. During the undefined period of validity, the contract may be terminated at any time by a twelve-month deadline by diplomatic means.

(3) For investments made up to the date of the expiry of this Agreement, the foregoing Articles shall continue to apply for a further fifteen years from the date of expiry of the Treaty.

(4) This Treaty shall apply irrespective of whether diplomatic or consular relations exist between the two Contracting Parties in accordance with Article 63 of the Vienna Convention on the Law of Treaties of 23 May 1969.

For the Federal Republic of Germany

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For the Republic of Angola

Francisco Romeo de Oliveira e Silva