

AGREEMENT BETWEEN THE GOVERNMENT OF THE KINGDOM OF SWEDEN AND THE GOVERNMENT OF THE KINGDOM OF MOROCCO ON THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Kingdom of Sweden and the Government of the Kingdom of Morocco, of the other part.

Desiring to enhance economic cooperation between the two States in order to foster the development and prosperity;

Recognizing the need to provide fair and equitable treatment to investments of companies and nationals of either Contracting Party in the territory of the other contracting party;

Convinced that an investment protection referred to above is likely to promote economic relations between the two States and stimulate initiatives for such investments;

Have agreed as follows:

Article 1.

For the purposes of this Agreement:

(1) The term "investment" includes all categories of assets including but not limited to:

- (a) The movable and immovable property as well as any other rights in rem such as mortgages, pledge, security interests, usufruits and similar rights;
- (b) The actions and other forms of equity interests in companies;
- (c) Monetary claims and rights to any performance having an economic value;
- (d) Industrial property rights, copyrights technical processes, trade names, as well as know-how and goodwill;
- (e) Business concessions under public law or under contract, including concessions to search for, or exploit nature's extract resources;
- (f) Capital goods which, under the terms of an agreement of financial leasing, are at the disposal of a lessee in the territory of one of the contracting parties by a lessor a national of the other contracting party or a juridical person having its seat in the territory of that Contracting Party.

The elements listed in (c), (d), (e) and (f) shall be subject to the prior contracts approved by the competent authorities in the measure or the laws and regulations of the host country. such investments shall be carried out in accordance with the laws and regulations of the host country.

(2) The term "ressortissant" means:

- (a) With respect to the Kingdom of Sweden, any natural person having the nationality of Sweden according to Swedish law.
- (b) In the case of the Kingdom of Morocco, any natural person having Moroccan nationality under Moroccan law;

(3) The term "company" means:

- (a) With respect to the Kingdom of Sweden, any legal person having its seat in Sweden or where the interests of Sweden are predominant;
- (b) In the case of the Kingdom of Morocco, any company or otherwise duly constituted, organized in accordance with the laws and regulations of the Kingdom of Morocco in which the natural persons who are nationals of the Kingdom of

Morocco, Moroccan legal persons where the Kingdom of Morocco and its agencies have a preponderant interest.

Article 2.

(1) Each Contracting Party shall at all times fair and equitable treatment to investments of nationals and companies of the other Contracting Party and shall refrain from any action that may hinder their unjustified management, maintenance, use, enjoyment, the sale or liquidation.

(2) Each Contracting Party shall encourage, in accordance with its policy on foreign investment, investments in its territory of nationals or companies of the other Contracting Party in accordance with its laws and admit such investments.

(3) Investments made in accordance with the laws and regulations of one Contracting Party in the territory of the other Contracting Party shall enjoy full protection under this Agreement.

Article 3.

(1) Investments made by companies or nationals of either Contracting Party in the territory of the other Contracting Party shall not be subjected to treatment less favourable than that accorded to investments made in its territory by nationals or companies of third State.

(2) Notwithstanding the provisions of paragraph (1), a Contracting Party which has concluded with one or more other States an FMCT or the formation of a customs union or a free-trade area or any other treaty establishing an enlarged economic cooperation based on a special affinity shall be free to grant a more favourable treatment to investments by nationals or companies of the State or States which are also Parties to the treaty or by nationals or companies of some of these States. a Contracting Party shall also be free to grant a more favourable treatment to investments made by nationals or companies of the other States, if such treatment is stipulated by bilateral agreements concluded with these States prior to the date of signature of this Agreement.

(3) The provisions of paragraph (1) of this article shall not be construed so that one of the contracting parties is obliged to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation.

Article 4.

(1) Neither Contracting Party shall take any measures of expropriation or nationalization or any other measures having the same effect directly or indirectly dispossessing nationals or companies of the other contracting party of an investment income thereto or the proceeds of liquidation of an investor, unless the following conditions are met:

(a) The measures are taken in the public interest and in accordance with the procedures required by law;

(b) The measures are not discriminatory; and

(c) The measures shall be accompanied by the payment of prompt, effective and adequate compensation, which shall be transferable, in accordance with the provisions of article 5 (below).

(2) Investors of either Contracting Party who has suffered a loss of an investment in the territory of the other contracting party due to a war or any other armed conflict, a national state of emergency, revolt, riot or insurrection shall be accorded, as regards restitution, indemnification, compensation or other settlement, a treatment no less favourable than that accorded to investors of a third State. resulting payments shall be transferable in accordance with the provisions of article 5 (below).

Article 5.

(1) Each Contracting Party shall, within the framework of its laws and regulations and in a non-discriminatory manner, permit the transfer in any convertible currency and without undue delay but in any case within a period not exceeding two months from the date on which the request for transfer:

(a) Current income related to investments of nationals or companies of the other contracting party, in particular, though not exclusively, net profits, interest, dividends, royalties and fees technical assistance and services;

(b) The proceeds of the total or partial liquidation of any investment made by nationals or companies of the other

contracting party;

(c) The funds in repayment of borrowings which both contracting parties have recognized as investments;

(d) The remuneration of nationals of the other Contracting Party who are allowed to work in its territory in connection with an investment;

(e) Payments as provided for in article (4) above.

(2) The Contracting Parties undertake to accord to transfers referred to in paragraph (1) treatment no less favourable than that accorded to transfers originating from investments made by nationals or companies of any third State.

(3) Any transfer referred to in this Agreement shall be effected at the official rate of exchange in force at the date of transfer.

Article 6.

If a contracting party or one of its organs makes a payment to any of its nationals or companies under it has given an indemnity to an investment in the territory of the other contracting party, the latter shall, without prejudice to the rights of the first appointed as stipulated in article 7, reconnaître transfer of all the rights or securities of the national or company è The first Contracting Party or its body and the first subrogation of the Contracting Party or its body in its rights or permits.

Article 7.

(1) Any dispute between the contracting parties concerning the interpretation or application of this agreement should, if possible, be settled through diplomatic channels.

(2) If the dispute cannot be settled in this way within six months, it shall be referred to an arbitral tribunal at the request of either of the Contracting Parties.

(3) Such an arbitral tribunal shall be constituted for each individual case, each Contracting Party shall appoint one member and these two members shall then agree on the selection of a chair from among nationals of a third State to be appointed by the Governments of the two parties compactantes. such members shall be appointed within two months and the Chairman within four months from the date on which either of the Contracting Parties has made in the other contracting fartie connaître its desire to see the dispute before an arbitral tribunal.

(4) If the periods specified in paragraph (3) have not been complied with, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make the necessary appointments.

(5) If the President is a national of either Contracting Party or if he is unable to perform this task, the Vice President of the International Court of Justice shall be invited to make the necessary appointments. if the Vice-President is a national of either Contracting Party or if he too is prevented from discharging this task, the member of the International Court of Justice the oldest who shall be a national of either Contracting Party or prevented from any other inability, shall be invited to make the necessary appointments.

(6) The arbitral tribunal shall be decided by majority vote and its decisions shall be final and binding on the contracting parties. each Contracting Party shall bear the costs of the member of the arbitral tribunal appointed by it and its legal representative. the cost of the Chairman and the remaining costs shall be borne in equal parts by both contracting parties. however, the tribunal may direct that a higher proportion of costs shall be borne by one of the Contracting Parties. in all other respects, the tribunal shall determine its own procedure.

Article 8.

(1) If a legal dispute concerning an investment naît between a Contracting Party and an investor of the other Contracting Party, it shall, as far as possible, be settled amicably between the parties to the dispute.

(2) If such a dispute cannot be settled amicably within 4 months from the date of notification by one of the Contracting Parties to the dispute, each Contracting Party, consents to the submission to arbitration for the purpose of the International Centre for Settlement of Investment Disputes under the Washington Convention of 18 March 1965 on the Settlement of Investment Disputes between States and Nationals of Other States.

(3) For the purposes of this article any legal person constituted in accordance with the legislation of one Contracting Party and before a dispute, in which more than half the capital owned by nationals or companies of the other Contracting Party, shall be treated in accordance with article 25 (2) (b) Washington of the said Convention, as a juridical person of such other

Contracting Party.

Article 9.

Nothing in this Agreement shall affect the rights or benefits, within the framework of national or international law in the interest of a national or company of a Contracting Party in the territory of the other contracting party.

Article 10.

The provisions of this Agreement shall also apply to investments in the territory of a Contracting Party in accordance with its legislation, by nationals or companies of the other contracting party prior to the entry into force of the Agreement.

Article 11.

(1) This Agreement shall enter into force provisionally upon signature and definitively on the date of the receipt of the latter of the two notifications to the fulfilment of the two contracting parties constitutional formalities required in its territory for the entry into force of this Agreement.

(2) This Agreement shall remain in force for a period of twenty (20) years and shall continue to be in force thereafter unless, after the expiry of the initial period of 19 years, either Contracting Party notifies in writing the other contracting party of its intention to terminate the agreement. such termination shall become effective one year after the date of receipt by the other contracting party.

(3) In respect of investments made prior to the date on which the denunciation becomes effective, the provisions of articles 1 to 10 shall remain in force for a further period of twenty years from that date.

Done at Rabat on 26 September 1990 in two originals in the Arabic and French Swedish languages, all texts being equally authentic and in the case of divergence of interpretation, the English text shall prevail.