

# CONVENTION BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF SUDAN ON THE RECIPROCAL ENCOURAGEMENT AND PROTECTION OF INVESTMENTS

The Government of the French Republic and the Government of the Democratic Republic of the Sudan;

Desiring to enhance economic cooperation between the two States and create favourable conditions for investments in the Democratic Republic of the Sudan and the Sudan in France,

Convinced that the promotion and protection of such investments will be conducive to the stimulation of capital and technology transfer between the two countries in the interest of their economic development,

Have agreed as follows:

## Article 1.

In this Convention the following terms and expressions defined below respectively:

1. The term "" means investment assets, rights and interests of any kind and particularly but not limited to:

- a) Movable and immovable property as well as any other rights in rem such as mortgages, liens, usufruits, deposits and similar rights;
- b) The premiums or discounts, actions and other forms of participation by the same minority indirect or to companies established in the territory of one of the Parties;
- c) Claims, rights to performance bonds or having an economic value:
- d) Copyrights, industrial property rights, technical processes, trade names and goodwill;
- e) Concessions granted by law or under contract, including concessions relating to prospecting, extraction, culture, development or exploitation of natural resources including those situated in adjacent maritime areas in which the contracting parties exercise sovereign rights,

Provided that such assets must have been invested in accordance with the law of the Contracting Party in whose territory the investment is made before or after the entry into force of this Convention.

Notwithstanding the above provisions of paragraph 1 of this article, any alteration of the form of investment of assets shall not affect their classification as investment, provided that such change is not contrary to the legislation of the State in whose territory the investment is made or to the approval granted to the initial investment.

2. The term "National" means natural persons having the nationality of one of the Contracting Parties.

3. The term "companies" juridical means any person in the territory of one of the Contracting Parties in accordance with its law and having its registered office.

## Article 2.

Each Contracting Party recognizes and encourages, within the framework of its laws, investments made in its territory by nationals and companies of the other party.

## Article 3.

Each Contracting Party undertakes to provide in its territory fair and equitable treatment in accordance with the principles of international law, to investments of nationals and companies of the other party and to ensure the enjoyment of the right thus recognized is hampered in either law or in fact.

This treatment shall be at least equal to that granted by each contracting party to nationals or companies of the most favoured nation.

#### **Article 4.**

Companies and nationals of either Contracting Party shall enjoy on the Exercise of the business and economic activities related to investment in the territory of the other party or national treatment most favoured nation treatment if the latter shall prevail.

#### **Article 5.**

The Contracting Parties shall not take any measures of expropriation or nationalization or any other measures the effect of which is, directly or indirectly dispossessing nationals and companies of the other party and their investments in its territory, except for a public purpose and provided that such measures do not discriminate against the interests of the other country.

The dispossession measures that might be taken shall be subject to the payment of just compensation which shall correspond to the real value of the investment at the time of dispossession.

This right in the amount and terms of payment be settled within six months from the date of dispossession must effectively be realizable. it shall be paid without delay and freely transferable.

#### **Article 6.**

Each Contracting Party in whose territory investments have been made by nationals or companies of the other Contracting Party shall accord to such nationals or companies the free transfer of:

- a) Income;
- b) Royalties arising out of intangible rights referred to in article 1 (1) above; ER (1) above;
- c) Payments made for the reimbursement of loans contracted regularly;
- d) The proceeds of the sale of or the partial or total liquidation of the investment including capital gains or increases in the capital invested;
- e) Compensation of dispossession provided for in article 5 above.

The nationals of either Contracting Party who have been authorised to work in connection with an investment approved in the territory of the other Contracting Party shall also be authorised to transfer their country of origin in a proportion appropriate remuneration.

The transfers referred to in the preceding paragraphs shall be effected without delay and at the official exchange rate applicable on the date of transfer.

#### **Article 7.**

If the legislation of either contracting party provides a guarantee for investments abroad, the latter may be granted within the framework of a case-by-case review, to investments made by companies or nationals of that Party in the territory of the other.

Investments of nationals and companies of one Contracting Party in the territory of the other party may request the Security referred to in the preceding paragraph only if they have previously obtained accreditation of that other party.

#### **Article 8.**

Each Contracting Party agrees to submit to the International Centre for Settlement of Investment Disputes (I.C.S.I.D.) disputes may object to a national or a company of the other contracting party, including where this is entered into the rights of one of its nationals or companies under article 9 of this Convention.

## **Article 9.**

If one of the Contracting Parties, by virtue of a guarantee given in respect of an investment made in the territory of the other party makes its payment to one of its nationals or companies, it is thereby entered into the rights and claims of the national or company. the rights of subrogation shall also apply to the transfer of rights and to arbitration referred to in articles 6 and 3 above.

## **Article 10.**

Investments in respect of a particular undertaking of one of the Contracting Parties with respect to nationals and companies of the other party shall be governed, without prejudice to the provisions of this Convention, by the terms of that commitment, insofar as it would include provisions more favourable than those provided for by this Convention.

## **Article 11.**

The most-favoured-nation treatment provided for in articles 3 and 4 of this Convention does not extend to the privileges granted by either contracting party by virtue of its participation in a customs union or association, a common market or a free trade area; to nationals or companies of any third State.

## **Article 12.**

Any dispute concerning the interpretation or application of this Convention which cannot be settled amicably through diplomatic channels within six months may be submitted at the request of either of the two contracting parties to an arbitral tribunal which shall be constituted in the following manner:

Each Contracting Party shall appoint an arbitrator within one month from the date of receipt of the request for arbitration. the two arbitrators thus appointed shall select within a period of two months after notification to the party that its arbitrator the latter, a third arbitrator. the third arbitrator shall be so designated a national of a third State.

If the time limits specified in paragraph above have not been made, either Contracting Party, in the absence of any other agreement, invite the President of the International Chamber of Commerce to make the necessary appointments.

The tribunal shall reach its decisions by a majority of votes. the decision of the arbitral tribunal shall be final and binding. the tribunal shall determine its own rules of procedure.

Each Contracting Party shall bear the cost of the arbitrator it has appointed in accordance with the above provisions. the costs related to the third arbitrator and the remaining costs shall be borne in equal parts by both contracting parties.

## **Article 13.**

This Convention shall be approved or ratified in accordance with the constitutional procedures applicable for each of the two States; the exchange of instruments of ratification or approval shall take place as soon as possible.

This Agreement shall enter into force one month after the date on which the exchange of instruments of ratification or approval.

This agreement is concluded for an initial period of ten years. it shall remain in force after the term unless one of the Contracting Parties denounces it in writing and through diplomatic channels with one year notice.

In the event of termination, the present Agreement shall continue to apply to investments made prior to the termination.

In WITNESS WHEREOF, the representatives of the two Governments duly authorized to this effect, have signed this Convention on the date and the following year.

For the Government of the French Republic:

R. Monory.

For the Government of the Democratic Republic of the Sudan:

O. M. Abdel Salam.

C. T. A. 1308.