

# CONVENTION BETWEEN THE BELGO-LUXEMBOURG ECONOMIC UNION AND THE ISLAMIC REPUBLIC OF MAURITANIA CONCERNING THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

THE GOVERNMENT OF THE KINGDOM OF BELGIUM, acting both on its own behalf and on behalf of the Government of the Grand Duchy of Luxembourg, by virtue of existing agreements between them

And

THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF MAURITANIA,

DESIRING to create conditions conducive to greater economic co-operation among themselves and in particular to investments made by nationals of one Contracting Party in the territory of the other Contracting Party;

CONSCIOUS that the encouragement and reciprocal protection of these investments may have a stimulating effect on private economic initiatives as well as on the increase of economic prosperity in the territories of the Contracting Parties;

HAVE AGREED THAT FOLLOWING:

## Article 1.

For the purposes of this Convention:

1. The term "nationals" means:

(A) in the case of the Belgo-Luxembourg Economic Union, any natural person who, under Belgian or Luxembourg legislation, is considered to be a citizen of Belgium or Luxembourg;

(B) in the case of Mauritania, any natural person who, according to Mauritanian law, is considered a citizen of Mauritania.

2. The term "companies" means:

(A) in the case of the Belgo-Luxembourg Economic Union, any legal person constituted under the laws of Belgium or Luxembourg and having its registered office in the territory of Belgium or Luxembourg;

(B) in the case of Mauritania, any company and any legal person constituted in accordance with Mauritanian law and having its registered office in the territory of Mauritania.

3. Leterme »investments» designation or direct or indirect capital contribution and any assets invested or reinvested in economically active establishments.

In particular, but not limited to, investments within the meaning of this Convention:

(A) movable and immovable property and any other rights in rem, such as mortgages, pledges, security interests, usufruct and similar rights;

(B) shares, shares and all other forms of participation in companies;

(C) claims and entitlements to any benefits having an economic value;

D) the rights of around, the industrial rights, the technical processes, the marks of connut. And the goodwill;

(E) concessions under public or contract law, including concessions in the field of agricultural research, extraction or

exploitation of natural resources.

Any change in the form in which the assets and capital have been invested shall in no way affect their character as "investments" within the meaning of this Convention.

## **Article 2. Investment Promotion**

1. Each Contracting Party shall permit investment by natural or legal persons of the other Contracting Party in its territory in accordance with its legislation and shall encourage such investments.

2. In particular, each Contracting Party shall authorize the conclusion and execution of contracts of licenses and agreements for commercial, administrative or technical assistance, provided that activities relate to the investments referred to in paragraph 1.

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

1. All direct and indirect investments, whether present or future, made by natural or legal persons of either Contracting Party shall enjoy fair and equitable treatment in the territory of the other Contracting Party.

2. Such investments shall enjoy constant security and protection, excluding any unjustified or discriminatory measures which might impair, in law or in fact, their management, maintenance, use, enjoyment or liquidation, Maintaining public order.

3. The treatment and protection guaranteed in paragraphs 1 and 2 of this Article shall be at least equal to those enjoyed by natural or legal persons of a third State and may in no case be less favorable than those recognized by law international.

## **Article 4. Private and Restrictive Measures of Ownership**

1. Each Contracting Party undertakes not to take any proprietary or restrictive measures with respect to investments in its territory or any other measure having a similar effect.

2. Should any requirement of public interest, security or national interest entail a derogation from paragraph 1 and such measures should exceptionally be taken, the following conditions must be fulfilled:

(A) The measures are taken in accordance with a legal procedure;

(B) they are neither discriminatory nor contrary to a specific undertaking;

(C) they are accompanied by provisions providing for the payment of adequate compensation.

3. This compensation shall represent the market value of the investments on the day before the measures are taken or, if necessary, on the day before the day on which the measures envisaged were made public.

However, where an investment has no market value, or where the investor concerned proves that the market value of the investments expropriated is less than their actual and objective value, the said compensation shall be determined on the basis of the latter value.

The compensation shall be paid in the currency of the State to which the investor belongs, on the basis of the exchange rate in force on the date of the measures of deprivation of property; They shall be paid without delay and shall bear interest at the normal commercial rate during the period from the date of the measures until the date of payment of the indemnities.

4. If a Contracting Party expropriates assets of a company which is established in its territory and which the natural or legal persons of the other Contracting Party owns shares, that Contracting Party shall apply the provisions of paragraphs 1, 2 and 3 Of this Article to the natural or legal persons of the other Contracting Party who own such shares.

5. If natural or legal persons of one Contracting Party own shares of a foreign company, other than a Belgian, Luxembourg or Mauritanian company, which would itself be the owner of shares in a The latter Contracting Party shall apply paragraphs 1, 2 and 3 of this Article to the aforementioned natural or legal persons, shareholders of the foreign company concerned.

This provision shall be applicable only if the State to which the foreign company belongs is not entitled to assert a right to compensation in favor of its company or abstains from doing so, or That the said company would not be entitled to claim the compensation provided for, or waive the right to do so.

## **Article 5. Transfers**

1. In respect of investments in its territory, each Contracting Party shall guarantee to the investors of the other Contracting Party the free transfer of their assets, including but not limited to:

(A) income from investments, including interest, capital, dividends, royalties or royalties;

(B) is necessary for the repayment of borrowings duly contracted;

(C) proceeds of collection of debts, liquidation of part or all of investments;

(D) compensation paid in accordance with Article 4.

2. Each Contracting Party shall grant such authorizations as are necessary to ensure the prompt completion of the transfers, and without any other charges whatsoever, only the usual taxes and transfer charges.

3. The treatment referred to in paragraphs 1 and 2 of this article shall not be less favorable than that accorded to nationals of a third State who are in similar situations.

## **Article 6. Exchange Rate**

1. The transfers referred to in Articles 4 and 5 shall be made at the exchange rates applicable on the date of transfer under the exchange regulations in force according to the categories of transactions.

2. These rates shall in no case be less favorable than those granted to nationals or legal persons of third countries, in particular by virtue of specific commitments provided for in any agreements or arrangements concluded with regard to investment protection.

3. In any event, the rates applied shall be fair and equitable, taking into account the usual transfer taxes and charges which may be imposed for foreign exchange transactions.

## **Article 7. Subrogation**

1. If either Contracting Party or a public body of that Party, under a guarantee for an investment, makes payments to its own nationals, the other Contracting Party shall recognize the first or the The right to exercise and assert by subrogation the rights and claims of its own nationals.

2. Such payments made by one Contracting Party or a public body of that Party shall in no case affect the right of nationals of that Party to institute proceedings before the International Center for the Settlement of Disputes In accordance with Article 10 of this Agreement, or of the said nationals, to pursue such proceedings until the settlement of the dispute.

## **Article 8. Other Obligations**

Where a matter is settled by both this Convention, an international agreement or the national regulations of one Contracting Party, nothing in this Convention shall preclude the nationals or companies of one of the Contracting Parties, Owners of the investments in the territory of the other Party, to avail themselves of the provisions which are most favorable to them.

## **Article 9. Special Agreements**

1. Investments made under a special agreement between one Contracting Party and investors of the other shall be governed by the provisions of this Convention and the aforesaid special agreement.

2. If investors so request, each of the Contracting Parties shall agree to include in the said Special Agreement a provision providing for the recourse, in case of dispute, to the International Center for Settlement of Investment Disputes (hereinafter referred to as " ICSID) established by the Convention for the Settlement of Investment Disputes between States and Nationals of other States, opened for signature at Washington on 18 March 1965.

## **Article 10. Reference to the International Center for the Settlement of Investment Disputes**

1. Any investment dispute between one Contracting Party and an investor of the other Contracting Party shall, as far as possible, be settled amicably between the parties to the dispute.
  2. If such dispute should not be settled within three months of the written notification of a sufficiently detailed complaint, it shall, at the request of the investor of the other Contracting Party, be submitted for conciliation or arbitration To ICSID.
- To this end, each Contracting Party hereby gives its prior and irrevocable consent to the submission of any dispute to ICSID.
- Such consent implies a waiver of the requirement that internal administrative or judicial remedies be exhausted.
3. Neither Contracting Party which is a party to a dispute shall raise any objection at any stage of the conciliation or arbitration proceedings or the enforcement of a judgment on the ground that the national, the adverse party to the dispute, Would have received an indemnity covering all or part of his losses, in execution of an insurance policy.

## **Article 11. Most Favorable Nation**

In respect of any matter governed by this Convention, nationals or companies of either Contracting Party shall be accorded most-favored-nation treatment in the territory of the other Party.

## **Article 12. Interpretation Disputes between the Contracting Parties**

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Convention shall, as far as possible, be settled by a Mixed Commission composed of representatives of the Contracting Parties.
  2. If a dispute can not be settled by the Mixed Commission provided for in paragraph 1 of this Article within six months of the written notification of one of the Contracting Parties, it shall be submitted to arbitration, At the request of either Contracting Party. The arbitral tribunal (hereinafter referred to as "the tribunal") shall be composed of three arbitrators, each of whom shall be designated by each Contracting Party, and the third arbitrator shall be designated by agreement between the Parties Contracting.
  3. Within two months of receipt of the request for arbitration, each Contracting Party shall appoint one arbitrator, and within two months of the appointment of the two arbitrators, the Contracting Parties shall appoint the third arbitrator.
  4. If the tribunal has not been constituted within four months of receipt of the request for arbitration, either Contracting Party may, in the absence of any other arrangement, invite the President of the International Court of Justice to appoint The arbitrator or the non - designated arbitrators.
- If the President is a citizen of one of the Contracting Parties and is unable to do so, the Vice-President may be invited to replace him.
- If the Vice-President is a citizen of one of the Contracting Parties and is unable to do so, the eldest member of the Intl. National Court of Justice who is not a citizen of One of the Contracting Parties, may be invited to make the necessary appointments, and so on.
- . 5. The tribunal shall determine its own rules of procedure.
  6. The decision of the tribunal shall be final and the Contracting Parties shall respect and comply with the terms of the decision.
  7. Each Contracting Party shall bear the costs of the appointment of its arbitrator and its representation in the arbitration procedure. The costs of appointing the Chairman and the other costs shall be borne in equal parts by the Contracting Parties. However, the tribunal may specify in its decision that a higher proportion of costs shall be borne by one of the Contracting Parties and this decision shall be binding on both Parties.

## **Article 13. Entry Into Force and Duration**

1. This Convention shall enter into force on the first day of the second month after the date on which the two Contracting Parties have notified each other of the completion of the required constitutional procedures in their respective countries and shall remain in force for a period of ten years.

Unless one of the Contracting Parties notifies the termination at least six months before the expiry of the period of validity, this Convention shall be tacitly renewed for a further period of ten years, and so on, each Contracting Party reserving to itself The right to terminate the Convention by means of a notification at least six months before the expiry of the current

period of validity.

2. In respect of investments made before the date of termination of this Convention, the foregoing Articles of this Convention shall remain in force for a further period of ten years from that date.

IN WITNESS WHEREOF, the undersigned representatives, being duly authorized by their respective Governments, have signed this Convention.

DONE at Brussels, on 23 November 1983, in duplicate in the French language.

For the Belgo-Luxembourg Economic Union:

L. TINDEMANS

For the Government of the Islamic Republic of Mauritania:

Commander AHMED OULD MINNIH

Nouakchott. On 15 July 1987.

To His Excellency Commander MOHAMED LEMINE OULD NDIAYANE.

Minister of Foreign Affairs and Cooperation of the Islamic Republic of Mauritania NOUAKCHOTT

Excellency,

With reference to Article 5 of the Convention between the Belgo-Luxembourg Economic Union and the Islamic Republic of Mauritania concerning the reciprocal promotion and protection of investments signed in Brussels on 23 November 1983, I have the honor to refer to the Confirm that it has been agreed between the Contracting Parties that the principle of free transfer to investors shall be applied subject to the right of each Contracting Party to make exceptional limitations in case of balance of payments difficulties National laws and regulations on a temporary basis and on a non-discriminatory basis. The transfer of assets covered by this measure shall in any event be effected at the expiry of a period of three years from the date of the request for transfer.

I should be obliged if you would confirm that your Government is in agreement with the foregoing, in which case this letter may be annexed to the Convention as an integral part of it.

Please accept, Excellency, the assurance of my highest consideration.

For the Belgian-Luxembourg authorities,

GUILLAUME METTEN Ambassador of the Kingdom of Belgium

Nouakchott, on 15 July 1987.

His Excellency GUILLAUME METTEN.

Ambassador of the Kingdom of Belgium

Excellency,

I have the honor to acknowledge receipt of your letter dated 15 July 1987, which reads as follows:

"With reference to Article 5 of the Convention between the Belgo-Luxembourg Economic Union and the Islamic Republic of Mauritania concerning the reciprocal promotion and protection of investments signed in Brussels on 28 November 1983, I have the honor To confirm that it has been agreed between the contracting parties that the principle of free transfer guaranteed to investments will be applied subject to the right of each of the contracting parties to make exceptional limitations in case of balance of payments difficulties By its national laws and regulations, on a temporary basis and on a non-discriminatory basis. The transfer of the assets covered by this measure shall in any event take place after the expiry of a period of three years from the date of the request for transfer.

I should be obliged if you would confirm that your Government is in agreement with the foregoing, in which case this letter may be annexed to the Convention as an integral part of it. "

I have the honor to confirm that my Government is in agreement with the foregoing.

Please accept, Excellency, the expression of my highest consideration.

Commanding Officer MOHAMED LEMINE OULD N DIAYANE