

# Agreement between the Government of the Kingdom of Morocco and the Government of Bahrain on the Promotion and Protection of Investment

The Government of the Kingdom of Morocco and the Government of Bahrain, hereinafter referred to as the Contracting Parties

Desiring to create favourable conditions for the development of economic cooperation between them and in particular through investments of investors of one country in the territory of the other country;

Recognizing the importance of the exchange of promotion and protection of investment and the extent of contribution that promote the flow of capital and private initiatives to increase the economic prosperity in both countries;

They have agreed on the following:

## Article 1. Definitions

Regarding the application of the provisions of this Agreement, unless expressly provided otherwise, the following terms are intended to have the meaning corresponding to each of them and described as follows:

1. "investments":

Means all types of assets owned by investor of one Contracting Party investing in the other contracting party territory earlier or later to the entry into force of this Agreement and that is associated with the acceptance of the host party of being an (investment) in accordance with its laws and regulations, including, in particular, without limitation:

- a. Movable and immovable property and any other property rights such as mortgages or liens tenure or other mortgages.
- b. Shares, stocks and corporate bonds, and any other form of contributions to the company, and the proceeds reserved for the purpose of re-investment.
- c. Claims to money or any business contract with a financial value.
- d. Industrial and intellectual property rights, including copyrights, patents, marks, industrial designs, trademarks and technical knowledge, and any other similar rights.
- e. Franchising rights granted by law or under contract, including concessions to search or extraction or exploitation of natural resources.

Any change in the form of investment assets does not affect their character as investments, and that the word investment includes all existing investments on the territories of the contracting parties or marine territories.

2. "Investor" means:

- a. Every natural person who holds Moroccan or Bahraini nationality in accordance with applicable law in each of the contracting parties.
- b. Every legal person established according to the law in force in each of the contracting parties and is based in the territory of the contracting party.
- c. Each legal entity established under the law of a third country and is subject directly or indirectly, to the control of one of the contracting parties or to a legal entity based and practicing its actual economic activities in the territory of this Contracting Party.

When one of the above-mentioned invest in the territory of the other Contracting Party.

### 3. "Revenues":

Means the amounts generated by any investment -without Identification- including profits, interest, capital gains, dividends, fees and royalty fees.

### 4. "Territory":

a. For the Kingdom of Morocco: the land of the Kingdom of Morocco and the territorial sea, along the sea and depths underground water adjacent to the shores of Morocco located beyond the territorial waters and exclusive economic zone, in which Morocco practiced its sovereign rights in accordance with the domestic law and international law, aiming to explore and exploit its natural resources (the Continental Shelf).

b. For the State of Bahrain: the territory means the State of Bahrain including the islands and the territorial sea and the adjacent area, and any area beyond the territorial seas of the State of Bahrain, where the region is likely to in the future be classified under the law of the State of Bahrain or under the international law as a region entitled to the State of Bahrain to exercise its rights with respect to the seas bottom and beneath the surface of the soil and natural resources.

## **Article 2. Investment Promotion and Protection**

1. Each Contracting Party shall accept and encourage in its territory in accordance with its laws and regulations the investments of investors of the other contracting party and create favourable conditions for these investments.

2. Each Contracting Party shall insure fair and equitable treatment for investments of investors of the other contracting party, any Contracting Party shall not to take any discriminatory measures that hamper the management, maintenance, use, or dispose of the investments of investors of the other contracting party built on its territory, each of the contracting parties shall insure the respect the commitments it has undertaken related to investments of investors of the other contracting party.

3. The investments that are subject to the requirements of a special agreement between one Contracting Party and investors of the other contracting party is subject to the provisions of that agreement as long as it provides conditions more favourable than the provisions of this Agreement.

4. Investment returns in case of re-invested in accordance with the laws of one of the Contracting Parties shall enjoy the same protection as the original investment.

## **Article 3. National Treatment and Most Favoured Nation Treatment**

1. Each Contracting Party shall provide in its territory for investments of investors of the other Contracting Party a treatment not less favourable than that accorded to investments of its own investors or to investments of investors of any third state.

2. Each Contracting Party shall provide in its territory to the investors of the other contracting party with respect to the management, maintenance, use, utilization or disposal of their investments a treatment not less favourable than that accorded to its own investors or investors of a third country, the most-favoured treatment should be applied.

3. The provisions of this Agreement relating to the most favourable treatment accorded to investors of any Contracting Party or a third country does not oblige one Contracting Party to grant investors of the other contracting party any treatment of benefits or privileges resulting from the following:

a. Any economic or customs union or a free trade area or a common market or any similar international agreement or any form of regional economic organizations that one Contracting Party is a member of or may join in the future.

b. Any agreement or any international arrangement on the tax system wholly or mainly.

## **Article 4. Compensation of Losses**

The investors of one Contracting Party whose investments have suffered losses as a result of war, armed conflict, revolution, state of national emergency, uprising disorder or other similar events in the other contracting party territory shall be benefiting by the latter a treatment not less favourable than that accorded to its own investors or to investors of any third state. The most-favoured treatment is applied in terms of indemnification, compensation, bonuses or any other adjustments related to those losses. Fair compensation while ensuring the free transfer of payments resulting from such compensations also granted to them.

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

1. The nationalization and expropriation procedures or any other procedure that has the same effect (hereinafter referred to as expropriation) that may be taken by a Contracting Party to the investments of investors of the other contracting party, must not be discriminatory or justified by reasons other than the public interest.
2. The Contracting Party who expropriate shall offer the rights fair and equitable compensation which amount is equal to the market value of the investment on the day before the day when the measure was taken or announced to the public.
3. The mentioned amount of compensation must be determined and made able to perform and paid without delay, no later than three months from the date of implementation of the aforementioned measures. In the case of a delay in the performance a compensation interest is calculated at the market price starting from the date of maturity until the date of the performance, the compensation is paid to investors in convertible currency and freely transferred.

## **Article 6. Transferring of Investments and Returns on Investments**

1. Each Contracting Party shall ensure to investors of the other Contracting Party free transfer of the following:
  - a. Invested capital, including reinvested returns or any additional amount aiming at investment maintenance.
  - b. The net profits, dividends, interest, royalties or any other ongoing returns.
  - c. The amounts required to repay the loans related to investment.
  - d. Proceeds from the sale or liquidation of total or partial investment.
  - e. Compensation payable pursuant to Articles 4 and 5.
  - f. Wages, salaries and other rewards that go back to the citizens of one of the contracting parties who are authorized to work in the territory of the other contracting party, according to exchange regulations in force in each Contracting Party.
2. Transfers referred to in paragraph 1 shall be done without delay and in a convertible currency, in the exchange rate in effect on the date of transfer and in accordance with the banking systems prevailing in the host country.

## **Article 7. Settlement of Disputes between the Investor and the Host State**

1. Any dispute relating to investments arising between a Contracting Party and investors one other Contracting Party, as far as possible shall be settled by mutual consent through consultations and negotiations between the parties of dispute.
2. If the dispute cannot be settled by mutual consent in a period of six months starting from the date of written notification, the dispute is presented by the investors choose to:
  - a. To a competent court of the Contracting Party that the investment is in its territory.
  - b. To arbitration in accordance with the provisions of the chapter of disputes settlement of the Unified Agreement for the Investment of Arab Capitals in the Arab countries for the year 1980.
  - c. To arbitration at the International Centre for Dispute Settlement related to investments, which was established under the Convention on the settlement of investment disputes between states and nationals of other countries open for signature in Washington on March 18, 1965.
3. No Contracting Party, that is a party to the dispute may raise an objection at any stage of the arbitration proceedings or execution of an arbitral award on the grounds that the investor of the other party in the dispute has received compensation that cover totally or partially its losses under an insurance.
4. The arbitration tribunal shall take its decisions on the basis of the national law of the Contracting Party that is a party to the dispute that investment is in its own territory, as well as the principles of international law and rules relating to conflict of laws, and the provisions of this agreement and special agreements that have been concluded on investment, as well as the principles of international law.
5. The arbitration decisions are considered final and binding on the parties to the dispute, each Contracting Party shall be committed to implementation in accordance with its national law.

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

1. Disputes arising between the Contracting Parties regarding the interpretation or application of this Agreement shall be settled, as much as possible, through diplomatic channels.

2. If it is not possible to resolve this dispute in a period of six months from the start of negotiations it is presented to an arbitration tribunal at the request of a Contracting Party.

3. The arbitration tribunal is constituted in the following form:

Each Contracting Party shall appoint an arbitrator and the two arbitrators shall choose together a third arbitrator from the national of other country as a president of the arbitration tribunal, the two arbitrators should be appointed within a month and the appointment of the president within four months from the date of one of the Contracting Parties notify the other party of its intention to submit the dispute to an arbitration tribunal.

4. If the deadlines specified in paragraph 3 of this article were not respected, one of the Contracting Parties may invite the President of the International Court of Justice to make the necessary appointments.

If the President of the International Court of Justice holds the nationality of one of the Contracting Parties, or if he was unable to exercise this task, the vice president is invited to make the necessary appointments, and if the Vice President has the nationality of one of the Contracting Parties, or if he was unable to exercise this task, the most seniority member in the international Court of Justice, which is not a national of any of the Contracting Parties is asked to do the mentioned appointments.

5. The decisions of the arbitral tribunal shall be based on the provisions of this Agreement and the rules and principles of international law and shall be taken by majority vote, be final and binding on the Contracting Parties.

6. The arbitral tribunal determines its own rules of procedure.

7. Each Contracting Party shall bear its member expenses as well as the representation expenses in the arbitration process. The President expenses and other expenses should be divided equally between the two Contracting Parties.

## **Article 9. Subrogation**

1. If either Contracting Party or the designated body to repay any payments under compensation had been granted in respect of investment in the other party territory, the other Contracting Party must recognize the rights conferred to the first Contracting Party or legal designated body or to the legal document executed by him including all the rights and claims of the party that has been compensated. It also recognizes the first party rights or the designated body to practice these rights and to execute these claims according to his right to subrogate for its citizens in a limited boundaries that is practiced by the party been guaranteed of subrogated.

2. Any payments received by the first the contracting party or the designated bode by him in non-transferable currencies under the rights and claims acquired should be available to freely act by the first Contracting Party for the purpose of covering any expenses done in the territory of the other contracting party.

## **Article 10. Scope of Application**

The provisions of this agreement are applied on the existing investments in accordance with the laws and regulations of the host country before and after the entry into force of this agreement, and this agreement is not applied on the disputes have arisen before the entry into force of this agreement.

## **Article 11. Application of other Provisions**

Whether the provisions of law applicable in the country of any of the contracting parties, or if obligations under existing international law at the present time, or arranged at a later date of signing this agreement as well as the provisions of the present Agreement, containing provisions, whether general or specific that grant investments made by investors of the other contracting party a more favourable treatment than provided by the current agreement, those provisions shall be applied instead of the provisions of the present Agreement, to the extent of the most favoured treatment.

## **Article 12. Entry Into Force of the Agreement**

This Agreement shall enter into force thirty days after the last date of receipt of the written notifications according to the

fulfilment of the contracting parties of the constitutional procedures necessary for the entry into force of this agreement.

### **Article 13. Duration of the Agreement and the Termination**

This agreement is valid for a period of ten years and remains in force thereafter unless one of the contracting parties notified in writing and diplomatic means about its intention to terminate the agreement, and then one year from the expiration date before, with regard to investments made during the entry into force of the Agreement, it is required to continue the provisions of the Agreement relating to such investments for a period of ten years after the expiration date of the agreement, without prejudice to the right of application of the provisions of public international law.

In recognition of what is stated above, the undersigned duly authorized by their respective governments concerned have signed this Agreement.

Done in two originals in Arabic language in the city of Rabat on April 7, 2000, and each of them equally authentic.

For the Government of the Kingdom of Morocco

Fathallah Wallaa'lou

Minister of Economy and Finance

For the Government of the State of Bahrain

Abdullah Hassan Saif

Minister of Finance and National Economy