

# Agreement between the Swiss Confederation and the Kingdom of Morocco concerning the reciprocal promotion and protection of Investments

Desiring to enhance economic cooperation between the two States,

Recognizing the important role of foreign private investment in the process of economic development and the right of each Contracting Party to determine the role and to define the conditions under which foreign investment may participate in the process,

Recognizing that the only way to establish and maintain an appropriate international capital flows shall maintain a mutually satisfactory, and investment climate in respect of foreign investment to respect the sovereignty and the laws of the host State having jurisdiction over them to act in a manner consistent with the policies and priorities adopted by the host country and endeavour to contribute to its development,

In order to create favourable conditions for investment capital in both States and intensify cooperation between nationals and companies, private or public law, of the two countries in particular in the field of technology, industrialization and productivity

Recognizing the need to protect investments of nationals and companies of the two States and fostering the transfer of capital with a view to promoting economic prosperity of both States;

Have agreed as follows:

## Article 1. Definitions

For the purposes of this Agreement:

a) The "nationals" are natural persons who, according to the legislation of each of the Contracting States, shall be regarded as nationals of that State.

b) The "companies" are:

aa) As regards the Swiss Confederation, communities, schools or foundations with legal personality, as well as partnerships or limited and other communities of persons without legal personality, and in which nationals of Switzerland, directly or indirectly, a preponderant interest;

bb) 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 and the Kingdom of Morocco and its agencies have a substantial interest.

c) The term "investment" includes all categories of property and assets and, in particular, though not exclusively:

aa) Ownership of movable and immovable property as well as any other rights in rem such as mortgages, liens, usufruits similar rights and rights;

bb) Shares and other forms of equity interests in companies;

cc) Monetary claims and rights to any performance having an economic value;

dd) Copyrights, industrial property rights, such as patents, trademarks, industrial designs, trade names, know-how and goodwill;

ee) Concessions or other rights granted by the authorities of the Contracting Parties, including extract concessions to search for or exploit natural resources.

d) The term means returns the amounts of the net profit or interests in connection with an investment for a specified period.

## **Article 2. Encouragement , Admission**

Each Contracting Party shall promote as far as possible investments made in its territory by nationals or companies of the other Contracting Party and admit such investments in accordance with its laws, orders and regulations.

## **Article 3. Protection**

Each Contracting Party shall protect within its territory investments made in accordance with its legislation by nationals or companies of the other Contracting Party and shall not hinder by unjustified discriminatory measures or the management, maintenance, use, enjoyment, extension and sale and, where appropriate, the liquidation of such investments. each Contracting Party shall endeavour to grant the necessary permits in connection with such investments and within the framework of its laws, the performance of contracts, technical assistance, commercial or administrative. each Contracting Party shall endeavour, whenever necessary, to provide the necessary authorizations concerning the activities of consultants and experts appointed by nationals or companies of the other contracting party.

## **Article 4. Treatment**

(1) Each Contracting Party shall in its territory fair and equitable treatment to investments of nationals or companies of the other contracting party.

(2) This treatment shall be no less favourable than that granted by each contracting party to investments made within its territory by its own nationals or companies or than that granted by each contracting party to investments made within its territory by nationals or companies of the most favoured nation treatment, if the latter is more favourable.

(3) However, this treatment shall not apply to privileges which either Contracting Party accords to nationals and companies of any third State by virtue of its participation in a customs union or association, a common market or a free trade area.

## **Article 5. Transfer**

Each of the Contracting Parties, and in which nationals or companies of the other Contracting Party has made investments, to grant such nationals or companies, without undue delay, convertible currency transfer of payments related to these investments, including:

- a) Profits, dividends, interests and other current income;
- b) Royalties payments and other rights deriving from licensing contracts and commercial, administrative or technical assistance;
- c) Other payments arising from contracts, including payments depreciation or financial or commercial loan repayments;
- d) The proceeds of sale or of the partial or total liquidation of an investment including the appreciation thereof;
- e) Compensation for reasons of expropriation, nationalization or other measures having the same nature or the same effect.

## **Article 6. Nationalisation or Expropriation**

The measures of expropriation, nationalization or any other measures having the same nature or the same effect that could be taken by the authorities of one Contracting Party against the investments made by nationals or companies of the other Contracting Party will be in accordance with the legal requirements and shall not be discriminatory nor justified for reasons other than the public interest. the contracting party taking such measures shall contribute to the person entitled thereto without undue delay, effective and adequate compensation.

## **Article 7. More Favourable Terms**

The more favourable terms than those of this Agreement which have been agreed to by one of the Contracting Parties with nationals or companies of the other Contracting Party shall not be affected by this Agreement.

## **Article 8. Principle of Subrogation**

If one of the Contracting Parties has granted any financial guarantee against non-commercial risks with regard to an investment made by a national or enterprise in the territory of the other contracting party, the latter shall recognize the rights of the first contracting party by virtue of the principle of subrogation to the rights of the investor if payment has been made under this first guaranteed by the contracting party.

## **Article 9. Arbitration**

(1) Disputes concerning the interpretation or application of the provisions of this Agreement shall be settled through diplomatic channels.

(2) If both contracting parties do not reach a settlement within nine months, the dispute shall be submitted, at the request of either contracting party to an arbitral tribunal composed of three members. each Contracting Party shall appoint an arbitrator. the two arbitrators so nominated shall appoint a chairman who shall be a national of a third State.

(3) If one of the Contracting Parties has not appointed its arbitrator and has not followed the invitation of the other contracting party to make such appointment within two months of the arbitrator shall be appointed, upon request by the latter Contracting Party by the President of the International Court of Justice.

(4) If the two arbitrators cannot reach an agreement about the choice of the Chairman within two months after their appointment the latter shall be appointed upon the request of either Contracting Party by the President of the International Court of Justice.

(5) If in the cases specified under paragraphs (3) and (4) of this article, the President of the International Court of Justice is prevented from exercising his mandate or if he is a national of either Contracting Party, the appointment shall be made by the Vice-President and if the latter is prevented or if he is a national of either Contracting Party, they shall be made by the most senior member of the Court who is not a national of either of the Contracting Parties.

(6) Unless the Contracting Parties decide otherwise, the tribunal shall determine its own procedure.

(7) The decisions of the Tribunal are final and binding on the contracting parties.

## **Article 10. Protocol**

The protocol attached to this Agreement shall form an integral part thereof.

## **Article 11. Entry Into Force , Termination**

(1) This Agreement shall enter into force on the day on which the two Governments have notified each other that the constitutional formalities required for the entry into force of international agreements have been completed; it shall remain valid for an initial period of ten years and thereafter tacitly renewed for periods of two consecutive years. each Contracting Party may denounce this Agreement by a written notice of six months prior to the expiry date.

(2) In the event of termination, the provisions of articles 1 to 10 above shall apply for a period of ten years for investments made prior to the termination of the Agreement.