

Economic cooperation agreement between the Government of the Kingdom of the Netherlands and the Government of the Kingdom of Morocco

The Government of the Kingdom of the Netherlands and the Government of the Kingdom of Morocco,

Motivated by the desire to strengthen their traditional ties of friendship and to develop and strengthen their economic relations and encourage investments on the basis of equality and mutual advantage;

Have agreed as follows:

Article 1.

For purposes of this Agreement:

- a) The term "nationals" also includes legal persons constituted in accordance with the legislation of one Contracting Party and having their principal place of business in the territory of that Contracting Party.
- b) The term "nationals" also includes legal person and subject to compliance with the obligations assumed by it by virtue of the legislation in force in the host country, the legal person constituted in accordance with the legislation of one Contracting Party and established in the territory of that Contracting Party and against which it has been admitted or agreed that because it is controlled by a national of the other Contracting Party, it shall be considered, for the purposes of the present Agreement, such as a national of the latter Contracting Party.
- c) The term "investment" includes in particular, though not exclusively: the term "investment" includes in particular, though not exclusively:
 - i) Movable and immovable property as well as any other rights in rem such quehypothèque, lien, pledge, usufruct and similar rights;
 - ii) Shares in companies or other forms of interest;
 - iii) Financial claims or to any right to performance having an economic value;
 - iv) Copyrights, industrial property rights, technical processes, COM merciaux names and goodwill; and
 - v) Business concessions under public law including concessions regarding the exploration and extraction of natural resources.

Article 2.

- (1) The Contracting Parties undertake to promote their coopérationdans the economic area.
- (2) The Contracting Parties shall cooperate in order to facilitate the participation of nationals of each production and service sectors.

Article 3.

- (1) In order to promote the achievement of the objectives set out in the permit présentaccord, the Contracting Parties shall, within the limits of their laws, their nationals to accept instalment payments for the supply of capital goods to public and private enterprises of the other country, as well as for the achievement of public works for SMEs.
- (2) Each Contracting Party shall, in accordance with its laws, the transfer, at any time, owed to creditors nationals of the

other contracting party.

Article 4.

(1) The Contracting Parties shall facilitate the intensification of commercial relations between their respective countries to maximize.

(2) Within the framework of and within the limits of their national legislation and in order to develop their resources, they shall promote cooperation between societies, as sociations, foundations and other organizations, which are connected with their economic life, and cooperation between all their nationals engaged in economic activities.

Article 5.

(1) The Contracting Parties reaffirm their commitment to the freedom of navigation principede commercial and agree to refrain from any discriminatory measures in this area.

(2)

a) Notwithstanding the formalities for entry and exit of aliens, each Contracting Party shall in its ports to vessels of the other Contracting Party the same treatment that it accords to its own ships with regard to:

i) The collection of duties and taxes port;

ii) Freedom of access to ports, use and all facilities related to shipping and to commercial transactions for ships and their crews and passengers and cargo, including in so far as it concerns the assignment of berths and facilities for loading and unloading.

b) Subparagraph (a) shall not apply, inter alia, at the port pilotage to cabotage and towage, pêche.a does not apply, inter alia, at the port pilotage, towage to cabotage and fisheries.

(3) In accordance with its international commitments including ReCom mandations formally adopted within the United Nations tractante con, each Party shall, within the framework of its laws and regulations, the necessary measures in order to reduce its ports, as far as possible, the length of stay of vessels of the other contracting party and to simplify the accomplissementdes administrative formalities, health and customs in force in those ports.

(4) For the purposes of this article:

a) The term "one contracting party vessel" means any vessel, exception' a fishing vessel flying the flag of, or that Contracting Party to comply with their legislation.

b) The term "crew" means the master of the vessel and any person employed during the voyage by the vessel to carry out functions related to the operation of a vessel or its maintenance and on the role of the crew.

Article 6.

(1) As regards payment of taxes, duties and taxes as well as the granting of exemptions and tax deductions, each Contracting Party shall accord in its territory to nationals of the other contracting party engaged in economic activities that the treatment it accords to its own nationals or to nationals of other States, if the latter is more favourable treatment to the imposed.

(2) Each Contracting Party shall be free to grant special tax concessions under international agreements for the avoidance of double taxation.

Article 7.

With regard to the Protection of Industrial Property, Res sortissants of each Contracting Party shall enjoy in the territory of the other party con tractante 'protection which shall not be less favourable than that enjoyed by the nationals of the other contracting party, without prejudice to the rights resulting from international conventions concluded in the field of industrial property and binding on the contracting parties.

Article 8.

Each Contracting Party undertakes to facilitate, in accordance with its national laws in force and formal international commitments in respect of the other Contracting Party:

The Organization in its territory economic and trade exhibitions and events;

b) The importation into its territory of Professional Equipment and re-export and of material and equipment intended for technical work on a governmental and private enterprises.

Article 9.

(1) Each Contracting Party shall ensure fair and equitable treatment to investments of nationals of the other Contracting Party and shall not hinder by unjustified discriminatory measures or the management, maintenance, use, enjoyment or disposal.

(2) In particular, each Contracting Party shall accord such investments lists corresponds to the same security and protection as it accords either to those of its own nationals or to those of other States *, if the latter is more favourable treatment to the investor. * of other States, if the latter is more favourable treatment to the investor.

Article 10.

In respect of investments made in the territory of one of the Contracting Parties in accordance with their legislation by a national of the other contracting party, the first Contracting Party undertakes, in accordance with the special conditions of the laws in force in its territory at the time of approval of the investment plus favorable pursuant to legislation or subsequent to authorize within the period - normally required for the completion of formalities necessary - the transfer to the country of the other Contracting Party and in the currency of the original investment, including:

- The net profits, interest, dividends, royalties and other current incomes accruing from any economic activity and with regard to nationals of the other contracting party;
- the proceeds of the total or partial liquidation of any investment made by the nationals of other contracting party;
- an appropriate portion of the earnings of nationals of the other Contracting Party who are authorised to work in the territory of that State;
- of funds in repayment of borrowings which the Contracting Parties have recognized as investments.

Article 11.

Neither Contracting Party shall take any measures depriving, directly or indirectly, of nationals of the other contracting party of their investments, unless the following conditions are met:

- a) The measures are taken in the public interest and under due process;
- b) The measures are not discriminatory or contrary to the commitments entered into by the Contracting Party which has made such measures;
- c) The measures are accompanied by provision for the payment of a fair compensation; this will correspond to the real value of the investment in question and, in order to be effective for nationals, it shall be entitled - normally within the period necessary for the completion of those formalities - be paid and made transferable in the same currency as the original investment.

Article 12.

The Contracting Party in whose territory the investment has been made, for which a financial investment guarantee against non-commercial risks has been granted by the other Contracting Party or by one of its nationals, shall recognize the subrogation of the guarantor in the rights of the investor for the damages, if payment has been made under the said guarantee and up to the amount of such payment.

Article 13.

The Contracting Party in whose territory a national of the other contracting party performs or intends to carry out an investment shall grant to any proposal by the national to submit to conciliation or arbitration, any dispute which may arise

in connection with that investment between the Centre for Settlement of Investment Disputes (ICSID), established under the Washington Convention of 18 March 19651.

Article 14.

This Agreement shall apply to all investments made in the territory of a Contracting Party, in accordance with the conditions laid down by law, by nationals of the other contracting party.

Article 15.

(1) The Contracting Parties hereby establish a joint committee, composed of representatives appointed by them.

(2) The Joint Committee shall meet at the request of one of the Contracting Parties to discuss any matter relating to the implementation of this Agreement and to review the ways and means to encourage economic cooperation between the two countries.

(3) The Joint Committee shall monitor the development of economic relations between the two countries, both bilaterally and multilaterally. In addition, it shall make recommendations to the respective Governments in cases where it would be possible to promote the objectives of this Agreement and the achievement of a greater measure of economic cooperation.

Article 16.

Where a matter is governed by this Agreement and simultaneously by another international agreement between the contracting parties, nothing in this Agreement shall prejudice the right of a national of a Contracting Party to avail himself of the provisions for the most favourable.

Article 17.

(1) Any dispute between the contracting parties concerning the interpretation or in application of the present Agreement, which cannot be settled otherwise, shall be submitted, at the request of one of the Parties to the dispute to an arbitral tribunal of three members. Each Party shall appoint an arbitrator. The two arbitrators so nominated shall appoint a third arbitrator who is not a national of either of the Parties.

(2) If a Party has not appointed its arbitrator and has not followed up within two months after an invitation from the other party to make such an appointment, the arbitrator shall be appointed by the latter Party upon request by the President of the International Court of Justice.

(3) If the two arbitrators cannot reach an agreement within two months after their appointment, at the choice of the third arbitrator, the latter shall be appointed upon the request of either party by the President of the International Court of Justice.

(4) If in the cases specified in paragraphs 2 and 3 of this article, the President of the International Court of Justice is prevented to ensure the said function or if he is a national of either party, the appointment shall be made by the Vice-President. If the Vice-President is unable to ensure the said function or if he is a national of either party, the appointment shall be made by the eldest member of the Court who is not a national of either party.

(5) The Tribunal shall decide on the basis of respect for the law. Prior to rendering its decision, it may at any stage of the proceedings propose to the approval of the Parties an amicable settlement of the dispute. These provisions shall not prejudice the power of the Tribunal to decide *ex aequo et bono* if the parties agree.

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

(7) The tribunal shall make its award by a majority of votes. The award shall be final and binding upon the parties to the dispute.

Article 18.

In respect of the Kingdom of the Netherlands, this Agreement shall apply to the territory of the Kingdom in Europe, Suriname and the Dutch Antilles unless the instrument of ratification of the Kingdom of the Netherlands shall dispose otherwise.

Article 19.

(1) This Agreement shall be ratified; the instruments of ratification shall be exchanged as soon as possible in The Hague.

(2) This Agreement shall enter into force on the thirtieth day following the date on which the exchange of instruments of ratification and shall be valid for a period of ten years a day following the date on which the exchange of instruments of ratification and shall be valid for a period of ten years.

Unless notice has been notified by either contracting party at least six months before the date of expiry of the current period of validity, the present Agreement shall be tacitly extended for another period of ten years and thereafter for each Contracting Party périodeségales, reserving the right to terminate the agreement upon notice of at least six months before the date of expiry of the current period of validity.

(3) Taking into account the periods referred to in paragraph 2 of this article, the Government of the Kingdom of the Netherlands may terminate separately for the application of this Agreement in respect of Suriname or the Netherlands Antilles.

(4) With respect to investments made prior to the date of termination of the present Agreement the foregoing articles shall continue to be effective for a period of ten years from that date.

Done at Rabat on 23 December 1971, in duplicate in the English language.

For the Government of the Kingdom of the Netherlands:

V. Vreede

For the Government of the Kingdom of Morocco:

Abdellatif FILALI