

Protocol between the Kingdom of Belgium and the Republic of Zaire related to the reciprocal encouragement of investments

The Kingdom of Belgium,

And

The Republic of Zaire

Desiring to stimulate private or public business initiative and increase prosperity in both countries,

In order to protect and promote investment,

Pursuant to articles 1 and 4 of the General Agreement on Cooperation between the Kingdom of Belgium and the Republic of Zaire on 28 March 1976;

Have agreed as follows:

Article 1.

For the purposes of this Protocol, the term "investments" includes all the categories of goods including but not limited to:

- Movable and immovable property as well as any rights in rem rights such as mortgages, pledges, etc., established or acquired in accordance with the legislation of the country in which the investment;
- The rights of participation in companies and other kinds of participation ;
- Industrial property rights, patents, trademarks, as well as goodwill intangibles ;
- Business concessions granted by a public authority, including concessions to search and exploitation of minerals ;
- All claims referred to above rights and benefits relating thereto.

Article 2.

Investments belonging to nationals and companies or other legal persons of one of the contracting States and located in the territory of the other State, shall be accorded Pan of that State, fair and equitable treatment, both as regards the exercise of professional and economic activities associated with such investments by the administration, enjoyment and the use of such investments.

The professional and economic activities referred to in paragraph 1 above shall be exercised in accordance with the law of the country of destination.

Article 3.

Investments made in the territory of one of the Contracting States by nationals, companies or other legal persons of the other party may only be subject to expropriation for national interest.

Besides, the measures of expropriation, nationalisation, direct or indirect dispossession, that could be taken in respect of these investments shall not be discriminatory or related to specific behaviours. These shall be subject to a fair compensation which must correspond to the price of the assets expropriated, nationalised or who have been subject to any kind of dispossession, at the day of the expropriation, nationalisation or dispossession.

This compensation shall be agreed upon within the time of its rules prior to the date of the transfer of the property

Article 4.

Each Contracting Party shall guarantee to nationals, companies or other type of legal person of the other Contracting State, the free transfer of:

- The capital invested, provided that the investment has been made in accordance with the local regulations applicable at the time of the investment;
- The interests, dividends, royalties and other income made by the invested capital;
- The proceeds of the total or partial liquidation of investments or goods, reinvestment;
- Compensation for expropriation and nationalization or dispossession laid down in article 3 above.

Article 5.

In the absence of contrary agreement concluded by the parties concerned with the approval of the competent authorities of the Contracting State in whose territory the investment is, transfers referred to in article 4 above shall be effected without undue delay, at the official rate of exchange on the date of transfer in accordance with the procedures in force in the territory of the Contracting State, and in accordance with the rules and practices authorized exchange rate by the International Monetary Fund.

Article 6.

If a Contracting State by virtue of a guarantee given in respect of an investment made in the territory of the other Contracting State makes payment to its own nationals or companies or other legal persons, it is subrogated into the rights and claims of the said nationals, companies or other legal persons. the rights of subrogation shall also apply to the transfer of rights referred to in article 5 above.

Article 7.

Where a matter is simultaneously governed by this Protocol and by other international agreement to which both States are contracting parties, nothing in this Protocol shall preclude the nationals of one contracting parties, who own investments, property rights or interests in the territory of the other contracting party to avail itself of the provisions which is the most favourable.

Article 8.

The agreements relating to investment to be made in the territory of one of the Contracting States by nationals, companies or other legal persons of the other Contracting State, must include a clause providing for disputes relating to these investments should be submitted, where a mutual agreement should take place as soon as possible, the International Centre for Settlement of Investment Disputes (ICSID) for settlement by arbitration under the Convention on the Settlement of Investment Disputes between States and Nationals of other States dated March 18th, 1965.

Article 9.

This Protocol is concluded for a period of ten years and may be reappointed for the same period, unless terminated in writing by both parties of one year before the expiration of each period.

The provisions of this Protocol shall continue to apply for a period of ten years from date of expiration for the investments made before that date.

Article 10.

This Protocol shall be approved in accordance with the constitutional procedures applicable for each of the two States.

It shall enter into force on the first day of the month following the exchange of notifications recognizing that, the other party, has satisfied all the requirements.

The contracting parties shall apply this Protocol provisionally with effect from the date of its signature.

Singed in Kinshasa, on 28 March 1976 in duplicate.

For the Kingdom of Belgium:

The Minister for Foreign Affairs and Development Cooperation:

Renaat Elslande Van.

For the Republic of Zaire:

The Commissioner of State for Foreign Affairs and International Cooperation:

Nguza Karl I Bond, permanent member of the Political Bureau.