

# **Agreement between the Government of the Kingdom of Morocco and the Government of the Islamic Republic of Mauritania on Encouraging and Protection of Investments**

The Government of the Kingdom of Morocco and the Government of the Islamic Republic of Mauritania, hereinafter referred to as the "Contracting Parties";

Desiring to create conditions for developing economic cooperation between them, especially through the investments of the investors of one of the two countries in the territory of the other country;

Aware of the importance of mutual investment promotion and protection, and the importance to stimulate the flow of capital and private initiatives to increase economic prosperity in both countries;

Have agreed as follows:

## **Article 1. Definitions**

For the purposes of this Agreement:

1. The term "Investment " means all kinds of assets that are invested in the territory of the other Contracting Party in accordance with the applicable laws and regulations in each one of them, in particular:

- A. Real estate and movable property, as well as other property rights such as mortgages and other rights and concessions;
- B. Shares, bonds and all forms of corporate contributions;
- C. Claims to money or any contractual rights of financial value;
- D. Industrial and intellectual property rights. Copyright and patents include trademarks, industrial designs, trademarks, technical knowledge and any other similar rights.
- E. Concessions conferred by law or under a contract, including concessions for exploration, extraction or exploitation of natural resources.

Any change in the legal form in which the assets were invested does not affect its character as investments.

2. The term "Investor" means:

- A. Every natural person who holds Moroccan or Mauritanian citizenship according to the applicable law of each of the Contracting Parties;
- B. Every legal person established according to the laws in force in both Contracting Parties, having its headquarters located in the territory of a Contracting Party;
- C. Every legal entity established under the law of a third country and that is directly or indirectly, under control the citizens of one of the contracting parties or a legal entity headquartered or having actual economic activities in the territory of a Contracting Party.

This is when one of the aforementioned persons makes an investment in the territory of the other Contracting Party.

3. The term "returns" means the net amounts resulting from the investments, especially the following:

Profits, interest, dividends, royalties and fees.

4. The term "Territory" means:

A. Regarding the Kingdom of Morocco: the Kingdom of Morocco soil, territorial waters and along the sea and the seabed of the waters adjacent to the shores of Morocco available beyond the territorial water and the special economic zone on which Morocco has sovereign rights according to its law and the international law for the purpose of exploring and exploiting natural resources (The Continental Shelf).

B. Regarding the Islamic Republic of Mauritania: the soil of the Islamic Republic of Mauritania, territorial waters and along the sea and the seabed of the waters adjacent to the shores of Mauritania available beyond the territorial water and the special economic zone on which Mauritania has sovereign rights according to its law and the international law for the purpose of exploring and exploiting natural resources (The Continental Shelf).

## **Article 2. Investment Protection**

1. Each Contracting Party accepts and promotes in its territory, in accordance with its laws and regulations, the investments of the investors of the other Contracting Party and creates the conditions for them to invest.

2. Each Contracting Party shall secure a fair and equitable treatment of the investments of the other Contracting Party's investor, and with the exception of the measures necessary to preserve the general public, these investments shall enjoy complete and comprehensive protection and security. A Contracting Party may not take discriminatory measures that impede the conduct of business of investments of investors of another Contracting Party on its territory or its maintenance, use, management or disposal thereof. Each of the contracting parties ensures that the obligations they have assumed with respect to the investments of the other contracting party are respected.

3. Investments that are subject to the requirements of a special agreement between one of the Contracting Parties and an investors of the other Contracting Party are subject to the provisions of that agreement as long as they provide more favorable terms than the provisions of this agreement.

Returns on investment in the event of reinvestment according to the laws of one of the contracting parties enjoy the same protection as the original investment.

## **Article 3. Investment Treatment**

1. Each Contracting Party in its territory shall provide to the investments of investors of the other Contracting Party a treatment no less favorable than that granted to investors by investors for the investments of any third party.

2. Each Contracting Party in its territory provides the investors of the other Contracting Party with regard to the conduct, maintenance, use, management or disposal of their investments, a treatment no less favorable than it accords to its own investors or the investors of any third party, whichever is the most favorable.

3. The provisions of this agreement related to the Most-Favoured-Nation treatment granted to the investors of any Contracting Party or a third party do not bind one of the Contracting Parties with respect to the investors of the other contracting party to any transaction, advantages or preference resulting from the following:

A. Any economic or customs union, free trade zone, common market, or any similar international agreement or any other form of regional economic organization to which one of the contracting parties is a member or to join in the future;

B. Any international agreement or arrangement that relates entirely or mainly to the taxation system.

## **Article 4. Expropriation**

1. The procedures for nationalization and expropriation, or any other measure having the same effect (hereinafter referred to as expropriation), which one of the contracting parties may take in investing the investments of the other contracting party, must not be discriminatory or be justified for other reasons other than by the public interest.

2. The Contracting Party who expropriated the property to the rights holders, shall grant a fair and equitable compensation equal to the market value of the investment in question on the day before the day in which the measures were taken or announced to the public.

3. The said amount of compensation shall be determined, made and payable without delay, within a maximum period of three months from the date of implementation of the aforementioned measures. In the event of a delay in performance, interest will be added to the market price starting from its due date and up to the date of performance. The compensation is paid to the investors in a convertible currency, and also be freely converted.

## **Article 5. Losses**

The investors of one of the Contracting Parties whose investments have suffered due to war, armed conflict, revolution, national emergency, uprising, turmoil or other similar events in the territory of the other Contracting Party shall benefit from a treatment no less favorable than it granted to an investor by the latter or to investors from any third party, and the most favorable treatment is taken regarding returns, compensation, bonuses or any other settlement related to those losses.

## **Article 6. Transfers**

1. Each Contracting Party guarantees to the investors of the other Contracting Party, after performing their tax duties, the freedom to transfer the following:

- A. The invested capital, including the reinvested returns or any additional amount aimed at maintaining the investment;
- B. Profits, dividends, interest, royalties, or any other ongoing returns.
- C. The sums needed to pay off investment loans;
- D. Returns resulting from the sale or liquidation of a total or partial investment.
- E. The compensation due in accordance with Articles 4 and 5;
- F. Wages, salaries and other fees that belong to the citizens of one of the Contracting Parties who have been authorized to work in the territory of the other Contracting Party;

According to the exchange regulations in effect with each Contracting Party.

2. The transfers referred to in paragraph 1, are to be made without delay and in a convertible currency and at the exchange rate in effect at the date of the transfer, in accordance with the exchange regulations applicable to the host country.

## **Article 7. Transfers**

- 1. If compensation is paid to the investor of one of the Contracting Parties, according to a legal or contractual guarantee that covers the non-commercial risks of an investment in the territory of the other Contracting Party, the latter will acknowledge to the former the substitution of the investor in all rights for the compensated dues.
- 2. Based on the guarantee granted to the concerned investment, the insurer may exercise all the rights that the investor would have exercised had the insurer not replaced him.
- 3. Every dispute arising between one of the contracting parties and the contractor's other beneficiaries, shall be settled in accordance with the provisions of Article Eight of this Agreement.

## **Article 8. Investment Disputes**

1. Any investment dispute arising between a Contracting Party and one of the investors of the other Contracting Party shall be settled as far as possible by mutual consent through consultations and negotiations between the parties to the dispute. If the dispute cannot be settled by mutual consent within six months from its date of notification in writing, the dispute shall be submitted at the option of the investor:

- A. Either to a competent court of the Contracting Party in which territory investment was made;
  - B. Either for arbitration in accordance with the provisions of the Special Chapter on Dispute Resolution from the 1980 Unified Agreement for the Investment of Arab Capital in the Arab States;
  - C. Or to arbitrate the International Center for Settlement of Investment Disputes, which was established under the "Convention on the settlement of investment disputes between States and nationals of other States", opened to signature in Washington on March 18, 1965.
2. For this purpose, each Contracting Party will give its final consent that every investment dispute is subject to this procedure of arbitration.
3. The one Contracting Party that is a party to the dispute, cannot raise an objection at any stage of the arbitration

proceedings or implement an arbitral award on the grounds that the investor of the other party to the dispute has obtained compensation that partially or fully covers his losses.

5. The arbitral tribunal shall make its decisions based on the national law of the Contracting Party that is party to the dispute, in which territory investment was made, as well as its rules relating to conflict of laws, the provisions of this Agreement and the special investment agreements that have been concluded.

6. Arbitration decisions are final and binding for both parties to the dispute, and each Contracting Party is obligated to implement them in accordance with its national law.

## **Article 9. Disputes between Contracting Parties**

1. As far as possible, disputes arising between the contracting parties regarding the interpretation or application of this agreement shall be settled by diplomatic means.

2. If this dispute cannot be resolved within six months from the date of initiation of the negotiations, it can be presented to an arbitral tribunal at the request of one of the Contracting Parties.

3. The arbitral tribunal shall be composed as follows:

Each Contracting Party shall designate an arbitrator, and the two arbitrators together shall choose a third arbitrators from the nationals of another country as president of the tribunal. The two arbitrators must be appointed within three months and the appointment of the president within five months, starting from the date of informing at one of the two Contracting Parties, that the other Party has its intention to present the dispute to the arbitral tribunal.

4. If the deadlines specified in paragraph 3 of this article are not respected, then the two 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 two Contracting Parties, or if an obstacle prevents him from performing this task, the Vice President may be called to make the necessary appointments, and if the Vice President holds the nationality of one of the Contracting Parties, or if an impediment prevents him from carrying out this task, the most senior member of the International Court of Justice who is not a nationals of one of the Contracting Parties, shall be invited to make with the aforementioned appointments.

5. The arbitral tribunal shall make its decisions on the basis of the provisions of this agreement and the principles and principles of international law. Decisions are taken by majority of votes. And it is final and boring for both contracting parties.

6. The arbitral tribunal shall determine rules pertaining to its methods of work.

7. Each Contracting Party shall bear the expenses of its judgment and its representation in the process of arbitration. As for the expenses of the president and the rest of the expenses, it shall be divided equally between the two contracting parties.

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

This agreements cover future investments, as well as investments made before its entry into force by investors of one of the Contracting Parties, in accordance with the laws and the regulations of the latter, but this agreement does not apply to disputes that have arisen before its entry into force.

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

1. This agreement shall be submitted for ratification and shall enter into force three days after the date of receipt of the last two notices in writing that the Contracting Parties have completed the constitutional procedures in force in each of them.

It remains in force for a period of 10 years, and unless one of the Contracting Parties expresses its desire to terminate it within a period of at least six months before the expiry of its validity period, the effect of the agreement will remain for another 10 years. Both contracting parties have the right to terminate it by written notification, which shall be notified at least six months before the expiry date of the extension.

2. In the event that the agreement is terminated, its provisions shall remain in effect for investments made in accordance with its provisions, and it shall remain subject to it for another ten years from the date of its termination.

Done at Nouakchott on the 10th Rabi 'al-Awwal 1421 AH corresponding to June 13, 2000 AD in two original texts in Arabic.

For the Government of the Islamic Republic of Mauritania

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