No. 6575

PAKISTAN
and
FEDERAL REPUBLIC OF GERMANY

Treaty for the Promotion and Protection of Investments (with Protocol and exchange of notes). Signed at Bonn, on 25 November 1959

Official texts: English and German.

Registered by Pakistan on 26 March 1963.

PAKISTAN
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Traité tendant à encourager et à protéger les investissements (avec Protocole et échange de notes). Signé à Bonn, le 25 novembre 1959

Textes officiels anglais et allemand.

Enregistré par le Pakistan le 26 mars 1963.

No. 6575. TREATY[1] BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND PAKISTAN FOR THE PROMOTION AND PROTECTION OF INVESTMENTS. SIGNED AT BONN, ON 25 NOVEMBER 1959

The Federal Republic of Germany and Pakistan,

Desiring to intensify economic co-operation between the two States,

Intending to create favourable conditions for investments by nationals and companies of either State in the territory of the other State, and

Recognizing that an understanding reached between the two States is likely to promote investment, encourage private industrial and financial enterprise and to increase the prosperity of both the States,

Have agreed as follows :

Article 1

(1) Each contracting State hereafter called in this Treaty a Party will endeavour to admit in its territory, in accordance with its legislation and rules and regulations framed thereunder the investing of capital by nationals or companies of the other Party and to promote such investments and will give sympathetic consideration to requests for the grant of necessary permissions. In the case of Pakistan such permissions shall be given with due regard also to their published plans and policies.

(2) Capital investments by nationals or companies of either Party in the territory of the other Party shall not be subjected to any discriminatory treatment on the ground that ownership of or influence upon it is vested in nationals or companies of the former Party, unless legislation and rules and regulations framed thereunder existing at the time of coming into force of this Treaty provide otherwise.

Article 2

Neither Party shall subject to discriminatory treatment any activities carried on in connection with investments including the effective management, use or enjoy-

[1] Came into force on 28 April 1962, one month after the date of exchange of the instruments of ratification which took place on 28 March 1962, in accordance with article 14.

ment of such investments by the nationals or companies of either Party in the territory of the other Party unless specific stipulations are made in the documents of admission of an investment.

Article 3

(1) Investments by nationals or companies of either Party shall enjoy protection and security in the territory of the other Party.

(2) Nationals or companies of either Party shall not be subjected to expropriation of their investments in the territory of the other Party except for public benefit against compensation, which shall represent the equivalent of the investments affected. Such compensation shall be actually realizable and freely transferable in the currency of the other Party without undue delay. Adequate provision shall be made at or prior to the time of expropriation for the determination and the grant of such compensation. The legality of any such expropriation and the amount of compensation shall be subject to review by due process of law.

(3) Nationals or companies of either Party who owing to war or other armed conflict, revolution or revolt in the territory of the other Party suffer the loss of investments situate there, shall be accorded treatment no less favourable by such other Party than the treatment that Party accords to persons residing within its territory and to nationals or companies of a third party, as regards restitution, indemnification, compensation or other considerations. With respect to the transfer of such payments each Party shall accord to the requests of nationals or companies of the other Party treatment no less favourable than is accorded to comparable requests made by nationals or companies of a third party.

Article 4

Either Party shall in respect of all investments guarantee to nationals or companies of the other Party the transfer of the invested capital, of the returns therefrom and in the event of liquidation, the proceeds of such liquidation.

Article 5

If a claim arising out of a guarantee given for an investment is brought against a Party, the latter shall without prejudice to its rights under Article 11, be authorised, on the conditions stipulated by its predecessor in title, to exercise the rights having devolved on such Party by law or having been assigned to it by the predecessor in title (devolved interest). As regards the transfer of payments to be made by virtue of the devolved interest to the Party concerned, paragraphs (2) and (3) of Article 3 as well as Article 4 shall apply *mutatis mutandis*.

Article 6

(1) Transfers under paragraphs (2) or (3) of Article 3, under Article 4 or Article 5 shall be made without undue delay and at rates of exchange applicable to current transactions on the date the transfer is made.

(2) The rate applicable to current transactions shall be based on the par value agreed with the International Monetary Fund taking into account the provisions of Section 3 of Article 4 of the Articles of Agreement establishing the International Monetary Fund.[1]

(3) In case no rate of exchange within the meaning of paragraph (2) above exists at the time of transfer the appropriate authorities of the Party in the territory of which the investment is situated shall admit a rate of exchange which is just and reasonable.

Article 7

If the legislation of either Party or international obligations existing at present or established hereafter between the Parties in addition to the present Treaty, result in a position entitling investments by nationals or companies of the other Party to treatment more favourable than is provided for by the present Treaty, such position shall not be affected by the present Treaty. Either Party shall observe any other obligation it may have entered into with regard to investments by nationals or companies of the other Party.

Article 8

(1) (*a*) The term "investment" shall comprise capital brought into the territory of the other Party for investment in various forms in the shape of assets such as foreign exchange, goods, property rights, patents and technical knowledge. The term "investment" shall also include the returns derived from and ploughed back into such "investment".

(*b*) Any partnerships, companies or assets of similar kind, created by the utilisation of the above mentioned assets shall be regarded as "investment".

(2) The term "return" shall mean the amounts derived from investments as profits or interest for a specified period.

(3) The term "nationals" shall mean

[1] United Nations, *Treaty Series*, Vol. 2, p. 40; Vol. 19, p. 280; Vol. 141, p. 355; Vol. 199, p. 308; Vol. 260, p. 432; Vol. 287, p. 260; Vol. 303, p. 284; Vol. 316, p. 269; Vol. 406, p. 282, and Vol. 426, p. 334.

(*a*) in respect of the Federal Republic of Germany, Germans within the meaning of the Basic Law for the Federal Republic of Germany ;

(*b*) in respect of Pakistan, a person who is a citizen of Pakistan according to its laws.

(4) The term "companies" shall comprise

(*a*) in respect of the Federal Republic of Germany, any juridical person, any commercial company or any other company or association, with or without legal personality, having its seat in the territory of the Federal Republic of Germany and lawfully existing in accordance with its legislation, irrespective of whether the liability of its partners, associates or members is limited or unlimited and whether or not its activities are directed to pecuniary gain ;

(*b*) in respect to Pakistan, any juridical person or any company or association, incorporated in the territory of Pakistan and lawfully existing in accordance with its legislation.

Article 9

The present Treaty shall also apply to approved investments made prior to its entry into force but not earlier than 1st September, 1954, by nationals or companies of either Party in the territory of the other Party unless in any case it is specifically provided otherwise. This provision shall not affect the Agreement of 27th February 1953, on German External Debts.[1]

Article 10

Each Party shall co-operate with the other in furthering the interchange and use of scientific and technical knowledge and development of training facilities particularly in the interest of increasing productivity and improving standards of living in their territories.

Article 11

(1) In the event of disputes as to the interpretation or application of the present Treaty, the Parties shall enter into consultation for the purpose of finding a solution in a spirit of friendship.

(2) If no such solution is forthcoming, the dispute shall be submitted

(*a*) to the International Court of Justice if both Parties so agree or

(*b*) if they do not so agree to an arbitration tribunal upon the request of either Party.

(3) (*a*) The tribunal referred to in paragraph (2) (*b*) above shall be formed in respect of each specific case and it shall consist of three arbitrators. Each Party

[1] United Nations, *Treaty Series*, Vol. 333, p. 3 and Vol. 437, p. 367.