No. 6870

UNITED STATES OF AMERICA
and
CONGO (LEOPOLDVILLE)

Exchange of notes constituting an agreement relating to investment guaranties. Leopoldville, 25 October and 17 November 1962

Official texts: English and French.

Registered by the United States of America on 12 August 1963.

ÉTATS-UNIS D'AMÉRIQUE
et
CONGO (LÉOPOLDVILLE)

Échange de notes constituant un accord relatif à des garanties d'investissements. Léopoldville, 25 octobre et 17 novembre 1962

Textes officiels anglais et français.

Enregistré par les États-Unis d'Amérique le 12 août 1963.

No. 6870. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT[1] BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF THE CONGO (LEOPOLDVILLE) RELATING TO INVESTMENT GUARANTIES. LEOPOLDVILLE, 25 OCTOBER AND 17 NOVEMBER 1962

Nº 6870. ÉCHANGE DE NOTES CONSTITUANT UN ACCORD[1] ENTRE LES ÉTATS-UNIS D'AMÉRIQUE ET LA RÉPUBLIQUE DU CONGO (LÉOPOLDVILLE) RELATIF À DES GARANTIES D'INVESTISSEMENTS. LÉOPOLDVILLE, 25 OCTOBRE ET 17 NOVEMBRE 1962

I

The American Ambassador to the Congolese Minister for Foreign Affairs

L'Ambassadeur des États-Unis d'Amérique au Ministre des affaires étrangères de la République du Congo

Nº 1

Leopoldville, October 25, 1962

Excellency :

I have the honor to refer to conversations which have recently taken place between representatives of our two governments relating to investments in the Republic of the Congo which further the development of the economic resources and productive capacities of the Republic of the Congo and to guaranties of such investments by the Government of the United States of America. I also have the honor to confirm the following understandings reached as a result of those conversations :

1. The Government of the United States of America and the Government of the Republic of the Congo shall, upon the request of either Government, consult concerning investments in the Republic of the Congo which the Government of the United States of America may guaranty.

2. The Government of the United States of America shall not guaranty an investment in the Republic of the Congo unless the Government of the Republic of the Congo approves the activity to which the investment relates and recognizes that the Government of the United States of America may guaranty such investment.

3. If an investor transfers to the Government of the United States of America pursuant to an investment guaranty, (*a*) lawful currency, including credits thereof, of the Republic of the Congo, (*b*) any claims or rights which the investor has or may have arising from the business activities of the investor in the Republic of the Congo or from the events entitling the investor to payment under the investment guaranty, or (*c*) all or part of the interest of the investor in any property (real or personal, tangible or intangible) within the Republic of the Congo, the Government of the Republic of the Congo shall recognize such transfer as valid and effective.

[1] Came into force on 17 November 1962 by the exchange of the said notes.

[1] Entré en vigueur le 17 novembre 1962 par l'échange desdites notes.

4. Lawful currency of the Republic of the Congo, including credits thereof, which is acquired by the Government of the United States of America pursuant to a transfer of currency or from the sale of property transferred under an investment guaranty shall be accorded treatment by the Government of the Republic of the Congo, with respect to exchange, repatriation or use thereof, not less favorable than that accorded to funds of nationals of the United States of America derives[1] from activities similar to those in which the investor had been engaged, and such currency may in any event be used by the Government of the United States of America for any of its expenditures in the Republic of the Congo.

5. Any dispute regarding the interpretation or application of the provisions of this Agreement or any claim against the Government of the Republic of the Congo to which the Government of the United States of America may succeed as transferee or which may arise from the events causing payment under an investment guaranty shall, upon the request of either Government, be the subject of negotiations between the two Governments and shall be settled, insofar as possible, in such negotiations. If, within a period of three months after a request for negotiation, the two Governments are unable to settle any such dispute or claim by agreement, the dispute or claim shall be referred upon the initiative of either Government, to a sole arbitrator, selected by mutual agreement, for final and binding determination in light of the applicable principles of international law. If the two Governments are unable to select an arbitrator within a period of three months after indication by either Government of its desire to arbitrate, the President of the International Court of Justice shall, at the request of either Government, designate the arbitrator.

Upon receipt of a note from your Excellency indicating that the foregoing provisions are acceptable to the Government of the Republic of the Congo, the Government of the United States of America will consider that this note and your reply thereto constitute an Agreement between our two Governments on this subject, the agreement to enter into force on the date of your note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

Edmund A. GULLION

His Excellency Justin Bomboko
Minister for Foreign Affairs
Leopoldville

[TRADUCTION — TRANSLATION]

Léopoldville, le 25 octobre 1962

Monsieur le Ministre,

[*Voir note II*]

Veuillez agréer, etc.

Edmund A. GULLION

Son Excellence Monsieur Justin Bomboko
Ministre des affaires étrangères
Léopoldville

[1] According to information provided by the United States of America this should read "derived".