

No. 7558

**NETHERLANDS
and
TUNISIA**

Convention concerning the encouragement of capital investment and the protection of property (with exchange of letters). Signed at Tunis, on 23 May 1963

Official text: French.

Registered by the Netherlands on 29 January 1965.

**PAYS-BAS
et
TUNISIE**

Convention relative à l'encouragement des investissements de capitaux et à la protection des biens (avec échange de lettres). Signée à Tunis, le 23 mai 1963

Texte officiel français.

Enregistrée par les Pays-Bas le 29 janvier 1965.

[TRANSLATION — TRADUCTION]

No. 7558. CONVENTION¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF THE TUNISIAN REPUBLIC CONCERNING THE ENCOURAGEMENT OF CAPITAL INVESTMENT AND THE PROTECTION OF PROPERTY. SIGNED AT TUNIS, ON 23 MAY 1963

The Government of the Kingdom of the Netherlands and the Government of the Republic of Tunisia,

Desiring to create favourable conditions for capital investment by nationals and corporations of either State in the territory of the other State, and

Recognizing that the contractual protection of investments is likely to stimulate private economic initiative and increase the prosperity of the two nations,

Have agreed as follows :

Article 1

Investments, property, rights and interests belonging to nationals or corporations of one of the Contracting Parties in the territory of the other shall receive fair and non-discriminatory treatment, at least equal to that accorded by each Party to its own nationals.

Article 2

Each Contracting Party undertakes to authorize, in exercise of its powers under the regulations promulgated in pursuance of its present legislation or of any more favourable legislation that may be enacted in the future,

—The transfer of net profits, interest, dividends and royalties due to nationals or corporations of the other Party ;

—The transfer of the proceeds of the complete or partial liquidation of investments approved by the country in which they are made ;

—The transfer of an adequate part of the earned income of nationals of the other Party who are authorized to work in its territory.

¹ Came into force on 19 December 1964, one month after the exchange of the instruments of ratification which took place at Tunis on 19 November 1964, in accordance with article 7.

Article 3

Where one Party expropriates or nationalizes property, rights or interests belonging to nationals or corporations of the other Party or takes any measure which results directly or indirectly in the dispossession of such nationals or corporations, it shall make provision for the payment of effective and adequate compensation, in accordance with international law. The amount of such compensation, which shall be fixed at the time of expropriation, nationalization or dispossession, shall be paid to the due recipient without unjustified delay. The amount of such compensation shall be transferred without delay. Nevertheless, measures of expropriation, nationalization or dispossession shall be neither discriminatory nor inconsistent with a specific undertaking.

Article 4

Where a dispute arises between the Contracting Parties as to the interpretation or application of the provisions of this Convention and such dispute cannot be settled satisfactorily through the diplomatic channel within a period of six months, it shall be submitted at the request of either Party to an arbitral tribunal consisting of three members. Each Party shall appoint one arbitrator. The two arbitrators so appointed shall select a referee who shall be a national of a third State.

If either Party fails to appoint its arbitrator and fails to comply with the other Party's request to make such appointment within two months, the arbitrator shall be appointed, at the request of the latter Party, by the President of the International Court of Justice.

If the two arbitrators cannot agree within a period of two months following their appointment on the choice of a referee, the latter shall be appointed at the request of either Party by the President of the International Court of Justice.

If, in the cases provided for in paragraphs 2 and 3 of this article, the President of the International Court of Justice is unable to act, or if he is a national of either Party, the Vice-President shall make the appointment. If the Vice-President is unable to act, or if he is a national of either Party, the appointment shall be made by the senior member of the Court who is not a national of either Party.

The tribunal shall base its decision on respect for the law. Before giving its decision it may at any stage of the proceedings propose to the Parties an amicable settlement of the dispute.

If the Parties agree, the tribunal shall settle the case *ex aequo et bono*.

Unless the Parties otherwise decide, the tribunal shall determine its own rules of procedure.

Decisions of the tribunal taken by a majority of the arbitrators shall be binding upon the Parties.