No. 31164

SPAIN
and
TUNISIA

Agreement on the reciprocal promotion and protection of investments (with exchange of notes of 10 May and 13 September 1993 rectifying the authentic Spanish text). Signed at Madrid on 28 May 1991

Authentic texts: Spanish, Arabic and French.

Authentic texts of the Exchange of notes: Spanish and French.

Registered by Spain on 23 August 1994.

ESPAGNE
et
TUNISIE

Accord sur la promotion et la protection réciproques des investissements (avec échange de notes des 10 mai et 13 septembre 1993 rectifiant le texte authentique espagnol). Signé à Madrid le 28 mai 1991

Textes authentiques : espagnol, arabe et français.

Textes authentiques de l'Échange de notes : espagnol et français.

Enregistré par l'Espagne le 23 août 1994.

[TRANSLATION — TRADUCTION]

AGREEMENT[1] ON THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS BETWEEN THE KINGDOM OF SPAIN AND THE REPUBLIC OF TUNISIA

The Kingdom of Spain and the Republic of Tunisia, hereinafter referred to as "the Contracting Parties",

Desiring to strengthen economic cooperation between the two States,

Recognizing the important role of private foreign capital investments in the economic development process and the right of each Contracting Party to define that role and to determine the conditions under which foreign investment may contribute to that process,

Recognizing that the only way to establish and maintain adequate inflows of foreign private capital is to create together a satisfactory investment climate, and, in the case of foreign investments, to respect the sovereignty and laws of the host State having jurisdiction over them, being guided by the policies and priorities adopted by the host country, and endeavouring to contribute to its development,

Seeking to create favourable conditions for capital investments in both States and to intensify cooperation between investors of both States, particularly in the fields of technology, industrialization and productivity,

Recognizing the need to protect the investments made by investors of both States and to stimulate the transfer of capital with a view to promoting the economic prosperity of both States,

Have agreed as follows:

Article 1

DEFINITIONS

For the purposes of this Agreement, investors are:

(*a*) Individuals: any individual who, subject to the laws of one of the Contracting Parties, is a resident and national of that Party.

(*b*) Legal persons: any company, firm, association or other organization which is legally constituted under the laws in force in one of the Contracting Parties.

(*c*) "Investments" means every kind of asset, including goods and rights of all kinds, acquired or recognized under the laws of a Contracting Party, and in particular, through not exclusively:

(*ca*) Movable and immovable property and any other real rights such as mortgages, liens, usufruit and similar rights;

[1] Came into force on 20 June 1994, the date on which the Contracting Parties informed each other (on 26 December 1991 and 20 June 1994) of the completion of the constitutional requirements, in accordance with article 12 (1).

(*cb*) Shares and other forms of participation in companies and commercial enterprises;

(*cc*) Financial or commercial claims relating to investments;

(*cd*) Copyright, industrial property rights, including patents, manufacturing or commercial trade-marks;

(*ce*) Concessions or other rights granted by the authorities of the Contracting Parties, including concessions for exploration, extraction or exploitation of natural resources;

(*cf*) "Returns" means the amounts of net profit or interest yielded by an investment during a specific period of time.

d) "Territory" means the land territory and territorial waters of each of the Contracting Parties, as well as the exclusive economic zone and the continental shelf that extends outside the limits of the territorial waters of each of the Contracting Parties, over which they have or may have jurisdiction and sovereign rights for the purposes of prospecting, exploring and conserving natural resources, under international law.

Article 2

PROMOTION, ACCEPTANCE

Each Contracting Party shall promote, as far as possible, the investments made in its territory by investors of the other Contracting Party and shall accept such investments pursuant to its laws.

Article 3

PROTECTION

Each Contracting Party shall protect in its territory the investments made pursuant to its laws by investors of the other Contracting Party and shall not impair, by unjustified or discriminatory measures, the management, maintenance, use, enjoyment, extension, sale or, where appropriate, liquidation of such investments.

Each Contracting Party shall endeavour to provide the requisite permits relating to these investments and shall, pursuant to its laws, grant permission for the performance of licence agreements and technical assistance, commercial or administrative contracts.

Each Contracting Party shall also endeavour, whenever the need arises, to provide the requisite permits relating to the work of consultants or experts engaged by investors of the other Contracting Party pursuant to its laws.

Article 4

TREATMENT

1. Each Contracting Party shall in its territory guarantee fair and equitable treatment for the investments made by investors of the other Contracting Party.

2. This treatment shall be no less favourable than that which each Contracting Party accords to investments in its territory made by its own investors or the treatment which is extended by each Contracting Party to the investments made in its territory by most-favoured-nation investors, if the latter treatment is more favourable.

3. However, this treatment shall not extend to the privileges that one of the Contracting Parties may grant to investors of a third country by virtue of its membership in or association with a customs union, a common market or a free trade area, or by virtue of any other agreement establishing cooperation on the basis of regional economic integration.

Article 5

TRANSFERS

With regard to investments made in its territory, each Contracting Party shall grant to investors of the other Contracting Party the right to transfer in freely convertible currency the payments derived therefrom, including:

(*a*) Interest, dividends, profits and other current revenues;

(*b*) Proceeds and other payments resulting from the performance of licence agreements and commercial, administrative and technical assistance contracts;

(*c*) Payments derived from other contracts, including those made in the form of debt repayment of the repayment of financial or commercial loans;

(*d*) The proceeds of the sale or liquidation, in full or in part, of an investment, including any earnings from capital investment;

(*e*) Compensation payments for losses owing to expropriation, nationalization or other measures having the same effect or nature.

Transfers shall be made net of tax after the investor has fulfilled his fiscal obligations pursuant to the laws of the Contracting Party in whose territory the investment was made.

The Contracting Parties undertake to facilitate the requisite procedures for these transfers without unjustified delay. In this context, both Contracting Parties agree that transfers should be made, after the investor has duly submitted the application, within a reasonably short period of time, in accordance with normal banking practices.

Each Contracting Party shall endeavour to expedite the required formalities both for the procurement of foreign currency on the part of the investor and for its effective transfer abroad.

Article 6

NATIONALIZATION AND EXPROPRIATION

Nationalization, expropriation or any other measure having similar characteristics, which the authorities of either Contracting Party may take against investments belonging to investors of the other Contracting Party, must respect the provisions of the law and shall be neither discriminatory nor motivated by reasons other than the public interest. The Contracting Party which takes such measures shall,