

No. 6677

**UNITED STATES OF AMERICA
and
NIGERIA**

**Exchange of notes constituting an agreement relating to
investment guaranties. Lagos, 28 August and 24 De-
cember 1962**

Official text: English.

Registered by the United States of America on 24 April 1963.

**ÉTATS-UNIS D'AMÉRIQUE
et
NIGÉRIA**

**Échange de notes constituant un accord relatif à la garantie
des investissements. Lagos, 28 août et 24 décembre 1962**

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 24 avril 1963.

No. 6677. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND NIGERIA RELATING TO INVESTMENT GUARANTIES. LAGOS, 28 AUGUST AND 24 DECEMBER 1962

I

The American Ambassador to the Nigerian Minister of Foreign Affairs and Commonwealth Relations

AMERICAN EMBASSY
LAGOS, NIGERIA

August 28, 1962

No. 45

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 Federation of Nigeria which further the development of the economic resources and productive capacities of the Federation of Nigeria 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 Governments of the United States of America and of the Federation of Nigeria will, upon the request of either of them, consult respecting projects in Nigeria proposed by citizens of the United States of America with respect to which investment guaranties have been made or are under consideration.

2. The Government of the United States of America agrees that it will issue no guaranty with respect to any project unless it is approved by the Government of the Federation of Nigeria.

3. If the Government of the United States of America makes payment in United States dollars to any person under any such guaranty, the Government of the Federation of Nigeria will recognize the transfer by such person to the Government of the United States of America of any right, title, or interest in assets expropriated or assets rendered useless by reason of expropriation, or of any currency or credits in any currency, with respect to which such payment under a guaranty was made, and the subrogation of the Government of the United States of America to any right, title, claim, or cause of action existing in connection therewith.

¹ Came into force on 24 December 1962 by the exchange of the said notes.

4. Lawful currency of Nigeria, including credits thereof acquired by the Government of the United States of America pursuant to such guaranties shall be accorded treatment not less favorable than that accorded to private funds arising from transactions of United States nationals which are comparable to the transactions covered by such guaranties, and such currency or credits thereof shall be available to the Government of the United States of America for administrative expenses. However, the two Governments shall consult with a view to assessing the utilization of these funds in such manner as to avoid any prejudice to the interests of either country.

5. Any claim against the Government of the Federation of Nigeria to which the Government of the United States of America may be subrogated as a result of any payment under such a guaranty, shall be the subject of direct negotiations between the two Governments. If, within a reasonable period, they are unable to settle the claim by agreement, it shall be referred for final and binding determination to an Arbitral Tribunal which shall consist of three persons appointed as follows : one arbitrator to be named by each Government, and the third arbitrator who shall also act as Chairman of the Tribunal, to be agreed upon by the two Governments provided that such third arbitrator shall not be a national of either country. Each of the Governments shall designate an arbitrator within three months of the date of delivery by either Government to the other Government of a diplomatic request for arbitration of dispute ; and the third arbitrator shall be agreed upon within three months after such period of three months. If either of the Governments fails to designate its own arbitrator within three months or if the third arbitrator is not agreed upon within the time limit indicated, the President of the International Court of Justice shall, at the request of either Government, make the necessary appointment or appointments by choosing the arbitrator or arbitrators. In case any arbitrator appointed in accordance with this clause shall resign, die, or become unable to act, a successor shall be appointed in the same manner as herein prescribed for the appointment of the original arbitrator and his successor have all the powers and duties of the original arbitrator.

Upon receipt of a note from Your Excellency indicating that the foregoing provisions are acceptable to the Government of the Federation of Nigeria, the Government of the United States of America will consider that this note and your reply thereto constitute an agreement between the 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 distinguished consideration.

Joseph PALMER II

The Honorable Jaja Wachuku, M.P.
Minister of Foreign Affairs and Commonwealth Relations
Lagos

II

*The Nigerian Minister of Foreign Affairs and Commonwealth Relations
to the American Ambassador*

UNITY AND FAITH

24th December, 1962

Note No. 162

Excellency,

I have the honour to refer to your Note No. 45 of 28th August, 1962, relating to the Investment Guaranty Agreement for investments in the Federation of Nigeria, and to state that the provisions contained in your Note which were agreed during negotiations between representatives of this Government and representatives of the United States Agency for International Development are acceptable to the Government of the Federation of Nigeria.

It is confirmed that the Government of the Federation of Nigeria will consider that this Note and your Note No. 45 of 28th August, 1962, constitute an agreement between the two Governments on this subject. This agreement comes into force with effect from to-day.

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

[SEAL] Jaja WACHUKU

His Excellency Mr. Joseph Palmer II
Ambassador of United States of America
Lagos