

No. 14415

**FRANCE
and
ZAIRE**

**Convention on the protection of investments. Signed at
Paris on 5 October 1972**

Authentic text: French.

Registered by France on 13 November 1975.

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et
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**Convention sur la protection des investissements. Signée
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Texte authentique : français.

Enregistrée par la France le 13 novembre 1975.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF ZAIRE ON THE PROTECTION OF INVESTMENTS

The Government of the French Republic, on the one hand, and the Government of the Republic of Zaire, on the other,

Desiring to intensify economic co-operation between the two countries,
Anxious, for that purpose, to protect and promote investments,
Have agreed on the following provisions:

Article 1. In this Convention the term “investments” covers all categories of property, including but not exclusively:

- Movable and immovable property and all other proprietary rights, such as mortgages and liens, that are acquired or constituted in accordance with the legislation of the country in which the investment is situated;
- Equity interests in companies and other analogous interests;
- Industrial property rights, patents, brands or trade marks, and intangible business assets;
- Concessions granted by public authorities, including concessions for the prospecting and mining of minerals;
- Any debt claim in respect of the aforementioned property and rights and in respect of services relating thereto.

Article 2. The investments of nationals, companies, or other juridical persons of one of the contracting States in the territory of the other State shall be accorded by the latter fair and equitable treatment with respect to the conduct of professional and economic activities connected with the investments, and the management, enjoyment and use of such investments.

Each contracting State shall, in any event, grant the same security and protection to such investments as it guarantees for the investments of its nationals.

The professional and economic activities referred to in the first paragraph above shall be conducted in accordance with the legal provisions of the host country.

Article 3. The investments made in the territory of one contracting State by nationals, companies or other juridical persons of the other State shall not be subject to expropriation except for a public purpose.

Moreover, such measures of expropriation, nationalization and direct or indirect dispossession as may be taken with respect to such investments shall be neither discriminatory nor contrary to a specific undertaking. They shall give rise to the payment of fair compensation, the amount of which should reflect the value of the assets that have been expropriated, nationalized or obtained through dispossession at the time of the expropriation, nationalization or dispossession.

¹ Came into force on 1 March 1975, i.e. the first day of the month that followed the date of the exchange of notifications (effected on 22 January 1974 and 20 February 1975) by which the Parties indicated that it had been approved as provided for by their respective constitutional procedures, in accordance with article 12.

The amount of the compensation, and the manner in which it shall be paid, shall be fixed by mutual agreement prior to the time of transfer of ownership.

Article 4. Each contracting State shall guarantee to nationals, companies or other juridical persons of the other contracting State freedom to transfer:

- Capital invested, provided the investment was made in accordance with the local regulations in effect at the time when the investment was made;
- Interest, dividends, royalties and other income derived from the capital invested;
- Compensation received for expropriation, nationalization or dispossession under article 3 above.

Article 5. If, as a result of a guarantee given in respect of an investment made in the territory of the other contracting State, one of the contracting States makes payments to its own nationals, companies or other juridical persons, that State shall be subrogated to the rights and legal actions of those nationals, companies or other juridical persons. The subrogation to rights shall also apply to the right of transfer referred to in article 4 above.

Article 6. In the absence of a contrary undertaking concluded between the interested parties with the approval of the competent authorities of the contracting State in whose territory the investment is situated, the transfers referred to in articles 4 and 5 above shall be effected without undue delay at the official exchange rate or, where appropriate, the market exchange rate in effect on the day of the transfer, following the procedure applicable in the territory of that contracting State and in conformity with the rules and practices established by the International Monetary Fund with regard to exchange rates.

Article 7. Natural and juridical persons who are nationals of one of the Parties shall not be subject in the territory of the other Party to fees, taxes and contributions of any kind whatsoever other or greater than those levied on natural and juridical persons who are nationals of that Party and are in similar circumstances. This provision shall not preclude the granting by either Government to its own nationals of specific preferential advantages with regard to investments, in so far as such advantages do not distort market conditions.

Article 8. With respect to the matters dealt with in this Convention, the investments of nationals, companies or other juridical persons of either contracting State shall enjoy the benefit of all provisions that are more favourable than those of this Agreement which might result from existing or future legislation of the other contracting State.

With respect to the matters dealt with in this Convention other than those referred to in article 7, the investments of nationals, companies or other juridical persons of one of the contracting States shall also enjoy the benefit of all provisions that are more favourable than those of this Agreement which might result from international obligations already assumed or which may be assumed by the other State vis-à-vis the first contracting State or third States.

Article 9. Agreements relating to investments to be made in the territory of one of the contracting States by nationals, companies or other juridical persons of the other contracting State must include a clause stipulating that disputes concerning such investments must, if an amicable agreement cannot be speedily reached, be submitted to the International Centre for Settlement of Investment Disputes, with a view

to their settlement by arbitration under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

Article 10. All disputes regarding the interpretation or implementation of this Agreement which cannot be settled within a period of six months by negotiation between the contracting States shall be submitted, at the request of either State, to an arbitral tribunal of three members. Each State shall designate an arbitrator. The two arbitrators so designated shall appoint a presiding arbitrator, who shall be a national of a third State.

If one of the States has not designated its arbitrator and has not acted on the invitation from the other State to do so within two months, the arbitrator shall be appointed, at the request of the latter State, by the President of the International Court of Justice.

If the two arbitrators cannot agree, within the two months following their designation, on the choice of a presiding arbitrator, the latter shall be appointed, at the request of one of the States, by the President of the International Court of Justice.

If, in the cases referred to in the second and third paragraphs of this article, the President of the International Court of Justice is unable to act or is a national of one of the States, the appointments shall be made by the Vice-President. If the latter is unable to act or if he is a national of one of the States, the appointments shall be made by the most senior member of the Court who is a national of neither of the States.

Unless the contracting States decide otherwise, the tribunal shall establish its own rules of procedure.

The decisions of the tribunal shall be binding on the contracting States.

Article 11. This Convention is concluded for a period of ten years and may be renewed for an additional ten-year period, unless it is denounced in writing by one of the Parties one year prior to the expiry of each period.

The provisions of this Convention shall continue to apply for ten years after its expiry to investments made prior to the date of expiry.

Article 12. This Convention shall be approved in accordance with the constitutional procedures in effect in each of the contracting States.

It shall enter into force on the first day of the month following the exchange of notification that each Party has complied with those provisions.

DONE in Paris on 5 October 1972 in duplicate, both texts being equally authentic.

For the Government of the French Republic:

[Signed]

VALÉRY GISCARD D'ESTAING

For the Government of the Republic of Zaire:

[Signed]

BARUTI NA NDWALE