

No. 15770

**FRANCE
and
MALAYSIA**

**Agreement on investment guarantees. Signed at Paris on
24 April 1975**

*Authentic texts: French and Bahasa-Malaysian.
Registered by France on 30 June 1977.*

**FRANCE
et
MALAISIE**

**Accord sur la garantie des investissements. Signé à Paris le
24 avril 1975**

*Textes authentiques : français et bahasa-malais.
Enregistré par la France le 30 juin 1977.*

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FRENCH
REPUBLIC AND THE GOVERNMENT OF MALAYSIA ON
INVESTMENT GUARANTIES

PREAMBLE

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

Considering that the two Parties wish to intensify economic co-operation between the two countries, and

Considering that they are anxious to protect and promote investments,
Have agreed as follows:

Article 1. For the purposes of this Agreement:

1. the term “national” means:

- (a) in the case of Malaysia, a person who is a citizen in accordance with the Constitution of that country; and
- (b) in the case of the French Republic, a person who is a national of the French Republic, under the provisions of French legislation;

2. the term “company” means:

- (a) in the case of Malaysia, any limited-liability or other company constituted in the territory of Malaysia, any body corporate or any association of persons legally constituted in accordance with the legislation of that country;
- (b) in the case of the French Republic, any body corporate constituted in France in accordance with French legislation and having its headquarters there and any company defined in subparagraph (a) of this paragraph which is directly or indirectly controlled either by a national of the French Republic or by a body corporate constituted in accordance with French legislation;

3. the term “investments” covers all types of assets, and in particular but not exclusively:

- (a) movable and immovable property and all other proprietary rights such as mortgages, privileges, securities, usufructs and similar rights;
- (b) shares and other types of interests;
- (c) copyright and rights of reproduction, industrial property rights and patents, technical processes, brand and trade marks and registered names, and intangible business assets;
- (d) concessions governed by public law, including concessions on the continental shelf, and in particular concessions for the investigation, prospecting, mining and development of natural resources; and
- (e) debt claims or rights to benefits of economic value,
it being understood that such assets, if invested:

¹ Came into force on 1 August 1976, i.e., the first day of the month following the exchange of notifications (23 July 1976) confirming that it had been approved in compliance with the constitutional procedures of the Contracting Parties, in accordance with article 9 (1) and (2).

- (i) in Malaysia, shall be invested in accordance with the legislation and regulations on the subject before or after the entry into force of this Agreement;
- (ii) in the French Republic, shall be invested in accordance with the legislation and regulations on the subject, before or after the entry into force of this Agreement.

Article 2. Each Contracting Party shall accord to nationals and companies of the other Party the same guarantee and protection for their property, rights and enterprises as it accords to its own nationals or companies. It shall also apply to them, in fiscal matters, the same treatment as it accords to its nationals or companies in the same situation.

Article 3. In the event of expropriation, nationalization and any other measures of direct or indirect dispossession of property, rights and interests envisaged in article 2, the Contracting Party which takes such measures shall, at the time of their implementation, provide for the prompt payment of effective and transferable compensation without undue delay.

Article 4. Each Contracting Party shall authorize the nationals or companies of the other Contracting Party to transfer:

- (a) capital invested;
- (b) interest, dividends, royalties and other income derived from the capital invested; and
- (c) compensation received for expropriation, nationalization or dispossession under article 3.

Article 5. Investments made under a special agreement with one of the Contracting Parties in enterprises belonging to nationals or companies of the other Party shall be governed by the provisions of that special agreement.

If the investors so request, each of the Contracting Parties shall agree to include in the special agreement a provision providing for any dispute to be referred to the International Centre for Settlement of Investment Disputes (ICSID).

Article 6. Each Contracting Party shall recognize the succession of the other Contracting Party after making payments to its own nationals or companies which have invested in the territory of the first Party, with the guarantee of this Agreement, to all the rights enjoyed by those nationals or companies under the Agreement.

In the case of the investments envisaged under article 5 of this Agreement, however, if a dispute has been referred to ICSID, the succession to its own nationals or companies of the Contracting Party which has made the payments shall apply only to the rights of those nationals or companies recognized in the decision of the Centre.

Article 7. In respect of questions governed by this Agreement other than the fiscal questions envisaged in article 2, the nationals or companies of the two Contracting Parties shall enjoy most-favoured-nation treatment in the territory of the other Party.

Article 8. 1. Disputes concerning the interpretation or implementation of this Agreement shall, if possible, be settled by the two Contracting Parties.

2. If a dispute cannot be settled in this manner within a period of six months, it shall be submitted to an arbitral tribunal, at the request of either Contracting Party.

3. The arbitral tribunal shall be constituted for each individual case; each Contracting Party shall designate a member, and the two members so designated shall choose as president, by common agreement, a national of a third State to be appointed by the two Contracting Parties. The members of the tribunal shall be designated within two months and the president within three months of the date on which one of the Contracting Parties informs the other Contracting Party that it wishes to submit the dispute to an arbitral tribunal.

4. If the arbitral tribunal is not constituted within the time-limits laid down in paragraph 3 and no extension has been agreed by the two Contracting Parties, and in the absence of any other arrangement for the settlement of the dispute, either Party may request the Secretary-General of the United Nations to make the necessary designations.

5. The arbitral tribunal shall base its decision on the provisions of this Agreement in accordance with the principles of law. Before the arbitral tribunal makes its decision, it may at any stage of the proceedings propose an amicable settlement to the Parties.

6. The arbitral tribunal shall reach its decisions by majority. These decisions shall be binding. Each Contracting Party shall pay the expenses of the arbitrator designated by it or on its behalf; the expenses of the president and the other costs shall be shared equally between the two Contracting Parties. Unless the Contracting Parties decide otherwise, the tribunal shall establish its own procedure.

Article 9. 1. This Agreement shall be approved in accordance with the constitutional procedure in effect in the territory of each of the Contracting Parties.

2. This Agreement shall enter into force on the first day of the month following the exchange of notifications that each Party has complied with this procedure.

3. This Agreement is concluded for a period of ten years and shall remain in force subsequently unless, after the expiry of the initial period of ten years, one or other Contracting Party notifies the other Party in writing of its intention to denounce the Agreement. Such denunciation shall take effect one year after notification thereof has been received by the other Contracting Party.

4. With regard to investments made before the notification of denunciation of this Agreement takes effect, the provisions of articles 1 to 8 inclusive shall remain in force for an additional period of ten years following that date.

DONE in Paris on 24 April 1975, in duplicate in the French and Bahasa-Malaysian languages, both texts being equally authentic.

For the Government of the French Republic:

[Signed]

JEAN SAUVAGNARGUES

For the Government of Malaysia:

[Signed]

Tun ABDUL RAZAK BIN HUSSEIN