

No. 24321

**FRANCE
and
TUNISIA**

Agreement concerning French real property constructed or acquired in Tunisia prior to 1956 (with annex and special agreement). Signed at Paris on 23 February 1984

Authentic text: French.

Registered by France on 29 August 1986.

**FRANCE
et
TUNISIE**

Accord relatif au patrimoine immobilier français construit ou acquis en Tunisie avant 1956 (avec annexe et accord particulier). Signé à Paris le 23 février 1984

Texte authentique : français.

Enregistré par la France le 29 août 1986.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF TUNISIA CONCERNING FRENCH REAL PROPERTY CONSTRUCTED OR ACQUIRED IN TUNISIA PRIOR TO 1956

The Government of the French Republic and
The Government of the Republic of Tunisia,
With reference to the Protocol of 28 October 1983,
Have agreed as follows:

Article 1. The purpose of this Agreement is to establish the general conditions relating to the gradual transfer to Tunisian nationals over a period of seven years, of real property constructed or acquired in Tunisia prior to 1956, and belonging directly to or inherited or received as gifts by French nationals or bodies corporate under French law wishing to sell such property.

The Agreement shall also apply on the same conditions to bodies corporate under Tunisian law in which French individuals or bodies corporate have an interest.

This Agreement includes special provisions relating to subsidized real property constructed or acquired prior to 1956 and situated in specific geographical zones.

PART I. GENERAL PROVISIONS

Article 2. Transactions relating to the property subject to this Agreement shall be governed by the Tunisian legislation in force on 28 October 1983 and by the provisions of this Agreement.

Article 3. Subject to the provisions of part II of this Agreement, the transfer price shall be established by agreement between the purchaser and the vendor.

In order to permit the exercise of the prior right of acquisition provided for under Tunisian legislation, the vendor shall notify the lessees or *bona fide* occupants in writing of his intent to sell and of the proposed price. On receipt of such notification, the lessee or *bona fide* occupant may exercise his prior rights, taking into account any counterproposals he may make, at the price agreed with the owner.

The owner shall submit a copy of the notification to the departments of the Governorate and to the Consulate of France which are territorially competent.

Should the lessee or *bona fide* occupant not exercise his prior right at the above price, the owner, on the expiry of the period in which the prior right may be exercised, may sell the property in question to a third party at the same or a higher price, subject to the other provisions of this Agreement.

Prior authorization by the Governor and by the Minister of Housing shall be granted within three months, if the lessee or *bona fide* occupant fails to acquire the property or if he exercises his prior right at the price agreed with the vendor.

¹ Came into force on 1 March 1985, i.e., the first day of the second month following the date of the last of the notifications by which the Parties had informed each other of the completion of the required constitutional procedures, in accordance with article 21.

Should authorization be denied, the owner, or the French Party, may submit the matter to the Joint Commission referred to in article 16 below for a decision.

In applying the provisions of this article, the Parties shall endeavour, as far as possible, to prevent any speculative transactions.

Article 4. With regard to subsidized housing, as defined in article 10 below, the above-mentioned authorizations shall be granted within a period of three months when the lessee or *bona fide* occupant is able to secure the necessary financing or when the transfer price is equal to the 1955 value of the property multiplied by a current index coefficient determined by common agreement and selected from the coefficients provided for in the agreements referred to in article 9 below. In the latter eventuality, the owner shall enjoy the benefit provided for in the special agreement in question.

Article 5. With regard to undeveloped sites and industrial, commercial and craft industry premises, the transfer price shall be set at a reasonable level by agreement between the vendor and the purchaser, taking account of market conditions. Transactions shall be submitted to the Minister of Housing, who shall take a decision within three months of the date of submission of the request for authorization. If any difficulties should arise, the proposed transaction shall be submitted to the Joint Commission referred to in article 16 below for a decision.

Article 6. Subject to the provisions of article 4 and part II of this Agreement, when an owner intends to sell, the Tunisian administration shall inform him, within six months of the submission of his request for information, of the amount of duties and charges for which he may be liable.

The duties and charges likely to be incurred include transfer duty, municipal taxes and arrears of taxes.

For those periods in respect of which he has received no rent, the owner shall be exempted from municipal taxes payable in respect of those periods, unless he himself or his contractually designated agent had the use of the property in question for each of those periods.

If he wishes to contest the nature or amount of the taxes and charges assessed, the owner may submit his case to the Joint Commission referred to in article 16 below for a decision.

Certification of discharge of tax liability shall be provided after payment of the amounts due. For this purpose the owner shall first employ funds available to him in Tunisia, and may, in accordance with Tunisian exchange regulations, receive an advance from the purchaser if the latter so agrees.

With respect to mortgages encumbering the property which is the object of the sale, the French authorities shall endeavour to take the requisite measures, in accordance with their legislation, to ensure that bodies corporate under French law redeem the mortgages granted to them. When mortgages initially granted to bodies corporate under French law become the property of bodies corporate under Tunisian law, the Parties shall agree to ask the bodies corporate concerned to come together to review the legal and financial conditions relating to the prompt redemption of such mortgages. All mortgages must be redeemed before the transfer of a property can be effected.

Article 7. Administrative decisions shall be subject to either an internal administrative appeal or an appeal through the courts, in accordance with Tunisian legislation.

Moreover, any difficulties which may arise in the application of this article shall be submitted to the Joint Commission referred to in article 16 below for a decision.

Article 8. The transfer of the proceeds of property transfers shall be effected in accordance with the procedures provided for under the Tunisian regulations in force on 28 October 1983.

In particular, the following provisions shall apply:

- First, and foremost, the financial transfer facilities made available under Tunisian exchange regulations to individuals of foreign nationality on final departure;
- In addition, the provisions set out in the exchange of letters between the Director-General of the Tunisian Treasury and the Head of the International Affairs Section of the French Treasury, dated 25 October 1980, irrespective of the date on which the assets arising from the transfer of real property were constituted.

However, the Government of the French Republic may make mixed credits available to the Government of the Republic of Tunisia in order to expedite the transfer of the proceeds of property transfers. The amount, the conditions and the arrangements for utilizing such financing shall be determined by agreement between the Parties.

An initial financing of 20 million francs shall be the subject of an agreement.

PART II. SPECIAL PROVISIONS

Article 9. Agreements may be concluded in order to expedite under appropriate conditions, the transfer to the Tunisian State or to its representative of subsidized property constructed or acquired prior to 1956 belonging to French nationals or to bodies corporate referred to in article 1, where such nationals or bodies corporate are not in occupation of, and are not carrying on any activity in, such property, and where such property is situated in zones deemed to be priority zones.

Article 10. Subsidized housing shall be classified in categories I and II, as defined in the Annex to this Agreement, of which it forms an integral part.

Tunisian experts shall undertake the classification of subsidized housing in one of the categories defined below and shall submit a report thereon to the Joint Commission referred to in article 16 below for its approval. In the event of dispute, experts may be appointed by the two Parties.

The 1955 value of property in these two categories shall be determined in accordance with the provisions of the Annex to this Agreement.

Article 11. With regard to subsidized housing covered by an agreement concluded pursuant to article 9 above, the Tunisian State or its representative shall make a public offer of purchase to the owners concerned.

Each Party shall take the necessary measures to ensure that the owners concerned are properly informed, particularly with regard to the classification referred to in article 10 above. Measures shall be taken to facilitate their identification.

Article 12. The purchase price, net of all taxes and duties, offered by the Tunisian State shall be equal to the 1955 value of the property, as determined by the application of the provisions set out in the Annex, multiplied by a coefficient determined under each agreement concluded pursuant to article 9 above.

Article 13. The public offer of purchase made to the French owners of the housing in question, or to their assigns, of the housing concerned shall be valid for a period of three months from the date of notification given to the owner, or, if the owner is unknown, for a period of nine months from the date of publication in French and Tunisian newspapers, a list of which shall be drawn up by agreement between the Parties.

On expiry of the above periods, the Commission shall consider whether there is any cause to extend the validity of the offer.

Article 14. In the event that the owners of the property to which the public offer of purchase relates, or their assigns, do not make themselves known in the period provided for under article 13 above, amounts corresponding to the purchase value of the property they own shall be inscribed in the ledgers of the Tunisian Treasury.

The inscription of such an amount shall constitute transfer of ownership of the property to the Tunisian State.

Following such inscription the owners or their assigns who make themselves known may recover the sum referred to in paragraph 1 of this article, in Tunisian dinars, from the Tunisian Treasury within a period of 15 years from the date of inscription.

Settlement may be effected from the preferential financing provided for in article 15 below so long as it remains available; otherwise, the transfer of funds shall be effected in accordance with the procedures provided for under the Tunisian regulations in force.

Article 15. The Tunisian State shall effect payment in France of the purchase price of the property by drawing on preferential financing made available by the Government of the French Republic to the Government of the Republic of Tunisia.

The amount, the conditions and the arrangements for utilizing such financing shall be determined by agreements between the Parties.

PART III. MISCELLANEOUS PROVISIONS

Article 16. A Joint Commission shall be established to ensure the proper application of this Agreement and of the agreements concluded for its implementation.

The Commission shall comprise:

- For Tunisia: representatives of the Minister of Housing (Chairman), the Minister for Foreign Affairs, the Minister of Planning, the Minister of Finance, the Governor of the Central Bank of Tunisia and the President and Director-General of the National Building Society of Tunisia (SNIT);
- For France: representatives of the Minister for Foreign Affairs (Chairman), the Minister for Economic Affairs, Finance and the Budget, the Minister for Repatriated Nationals, and the Director-General of the National Agency for the Compensation of Overseas French (ANIFOM).

The Commission may also include any other representative designated by either Party.

The Commission shall be informed of all transactions, of the reasons why particular transactions may not have been authorized, and of any difficulties arising from the implementation of this Agreement. The Commission may inform the competent authorities of its decisions.

The Commission shall meet periodically, alternately at Tunis and at Paris, or at the request of either Party, and at least twice a year.

Article 17. If housing included in category III as defined in the Annex to this Agreement, and situated in the zones deemed priority zones, referred to in article 9, is occupied by Tunisian families of limited means, the matter may be submitted to the Joint Commission referred to in article 16 so that it might consider the possibility of making available to the Tunisian State, for the purchase of the property in question, the financing referred to in article 8 above, the price being determined by agreement between the Tunisian State and the owner. Should the Tunisian State and the owner not reach an agreement, the provisions of part I of this Agreement shall apply.

Article 18. The arrangements for assessing the duties payable by the French partners of bodies corporate owning property covered by this Agreement, as well as the arrangements for the payment of such duties, shall be the subject of an exchange of letters constituting an agreement.

Article 19. Should a decision to make payment prove ill-founded, the two Governments shall take all necessary measures to recover any sums which may have been improperly paid.

Article 20. This Agreement is concluded for a period of seven years. The Parties agree to conduct a joint review of the implementation of the provisions of this Agreement within a period of three years from the date of its entry into force.

The review may take place before the expiry of this period at the request of either Party.

Article 21. Each Government shall notify the other when the constitutional procedures required for the entry into force of this Agreement have been completed. The Agreement shall enter into force on the first day of the second month following the date of the second such notifications.

DONE at Paris, on 23 February 1984, in two copies.

For the Government
of the French Republic:

[CHRISTIAN NUCCI]

Minister responsible to the Minister for
Foreign Affairs for Co-operation and
Development

For the Government
of the Republic of Tunisia:

[Signed]

BEL HADJ
Minister of Housing

ANNEX

I. CLAUSES AND DEFINITIONS

1. *Zones*

The communes and districts of Tunisia shall, for the purposes of this Agreement, be divided into three zones:

- (a) Zone 1: Tunis;
- (b) Zone 2: La Marsa, Sidi-Bou-Saïd, Carthage, La Goulette, Radès, Megrine, Ez-Zahra, Hammam Lif, l'Ariana, le Bardo, Bizerte, Menzel-Bourguiba, Sousse, Sfax, Gabès, Aïn Draham, Tabarka, Hammamet;
- (c) Zone 3: Other communes and districts.

2. *Dwellings*

The following shall be regarded as dwellings: individual houses or apartments used as a primary or secondary residence by their owners or *bonafide* persons, or leased for use as dwellings.

Oukalas (offices) and premises used for both residential and business purposes on the same site where there is no separate access and at least one part of the premises opens on to the highway, shall be treated as dwellings and shall be subject to the same criteria.

3. *Habitable Rooms*

Only rooms of more than 9 square metres intended for habitation (dining room or eat-in kitchen, living room, studio, living room, library, study, bedroom) or for the performance of an occupation (office, consulting room and waiting room) shall be regarded as habitable rooms.

4. *Overall Area of Buildings*

(1) The overall area of a building shall correspond to the gross floor area of the rooms and annexes used for habitation, that is, the area calculated taking into account the thickness of the exterior walls.

In respect of apartment buildings, the schedule shall reflect a standard adjustment for communal areas not devoted to private use (staircases, lift shaft, lobby, landings, floor corridors, crawl spaces and communal basements).

Accordingly, only the overall area of the apartments shall be taken into account.

(2) *Balconies, terraces, loggias, verandas*

- (a) *General rule:* in calculating the overall area of a building no account shall be taken of balconies affixed to the wall, or of roofs or of open terraces, even if the latter are accessible;
- (b) *Special cases:* loggias, as well as terraces enclosed by walls, or, in the case of individual houses, enclosed verandas, shall be included in the overall area of the building. If their area is greater than 9 square metres, they shall be treated as habitable rooms.

5. *Appraisal of Converted, Raised and Unfinished Buildings*

(1) *Raised buildings.* The value of raised premises shall be equal to the sum of the partial values relating to each period of construction.

(2) *Unfinished structures.* The appraisal of unfinished structures shall reflect the stage of completion. The percentage of work completed on the date on which the owner abandoned the property shall be applied to the standard unit values used in the appraisal of completed structures, taking into account their location, category and year of construction.

(3) *Additions to structures.* When one or more rooms have been added to a dwelling subsequent to the date of construction, the 1955 value of the dwelling shall be determined as follows:

- (a) If the number of rooms added to the dwelling is equal to or less than 50 per cent of the original number of rooms, the building shall be appraised on the basis of the initial category and year of construction;
- (b) If the number of rooms added to the dwelling is more than 50 per cent of the original number of rooms, the building shall be appraised according to the category determined on the basis of the construction and the year of completion of the construction.

6. *Communal Areas of Apartment Buildings Used for Private or Business Purposes*

Garages, caretakers' apartments, business premises and jointly-owned apartments shall be the subject of a separate appraisal in proportion to the percentage of ownership.

7. *Outbuildings of Residential Premises*

(1) *General.* Outbuildings of residential premises, and open and covered terraces of individual houses shall be appraised at 50 per cent of the value of a room of the individual house or apartment to which they are attached, provided that their overall area is equal to or greater than 9 square metres.

Otherwise they shall be appraised as though the sum of the overall area was equal to or greater than 9 square metres.

Where there is more than one outbuilding or terrace, their value shall be no greater than the value of a room in the premises to which they are attached.

(2) *Outbuildings converted to business or similar premises.* Workshop, conference room, etc., in an individual house or apartment building.

Such premises shall be appraised separately according to the nature of the premises and the schedules applicable to them as defined below:

II. BASES OF APPRAISAL

The values stated below are expressed in French francs.

A. *Residential Premises*

(1) Residential premises are classified in three categories depending on the ratio of the overall area to the number of habitable rooms, in accordance with the following table:

Year of construction	Categories		
	I	II	III
	Ratio of area of the building to number of habitable rooms		
Construction prior to 1 January 1949	Less than 24 m ²	Between 24 and 30 m ²	Over 30 m ²
Construction after 1 January 1949	Less than 20 m ²	Between 20 and 25 m ²	Over 25 m ²

(2) The 1955 value of the residential premises included in categories I and II shall be equal to the product of the number of habitable rooms multiplied by the unit value for the zone, category and year of construction, in accordance with the following table:

Year of construction	Zones	(Values in French francs) Categories	
		I	II
Prior to 1919	Zone 1	4,350	7,600
	Zone 2	3,350	6,300
	Zone 3	3,200	5,900
1919-1948	Zone 1	6,400	9,900
	Zone 2	5,300	8,500
	Zone 3	5,000	8,100
After 1948	Zone 1	6,800	10,800
	Zone 2	5,850	9,500
	Zone 3	5,600	9,100

(3) The value of appurtenances of individual houses shall be determined by each specific agreement.

B. Premises Used for Business Purposes

(1) The 1955 value of permanent premises, used for offices and similar purposes, schools, clinics and private hospitals shall be equal to the product of the number of square metres of the overall area of the building multiplied by the unit value for the zone and year of construction, in accordance with the following table:

(In French francs) Period of construction								
Before 1919			From 1919 to 1948			After 1948		
Zone 1	Zone 2	Zone 3	Zone 1	Zone 2	Zone 3	Zone 1	Zone 2	Zone 3
120	100	90	305	250	240	490	435	415

The appraised value shall be revised in accordance with the procedures applicable to individual houses with appurtenances. The outbuildings of such premises shall be appraised at 25 francs per square metre (1955 value).

(2) Hotels and family boarding houses shall be classified in three categories in accordance with the classification established under the decree of 12 January 1950 regulating hotels and furnished rooms in Tunisia.

- *Category I:* Family boarding houses, private hotels and tourist hotels (1 and 2 star);
- *Category II:* Tourist hotels (3 star);
- *Category III:* Tourist hotels (4 star and de luxe).

The 1955 value of buildings used as hotels or family boarding houses shall be equal to the product of the number of square metres of the overall area of the building multiplied by the unit value for the zone category and year of construction, in accordance with the following table:

Date of construction	(In French francs) Categories								
	I			II			III		
	Zone 1	Zone 2	Zone 3	Zone 1	Zone 2	Zone 3	Zone 1	Zone 2	Zone 3
Prior to 1919	205	160	145	285	235	220	370	280	260
Between 1919 and 1948	300	250	235	370	315	300	450	355	330
After 1948	400	340	325	490	435	410	585	485	455

The appraised value shall be revised in accordance with the procedures applicable to individual houses with appurtenances. The outbuildings of such buildings shall be appraised at 25 francs per square metre (1955 value).

(3) The 1955 value of premises used as shops or stores intended for the reception of customers on a regular basis shall be equal to the product of the number of square metres of the overall area of the building multiplied by the unit value for the zone and year of construction, in accordance with the following table:

(In French francs)								
Period of construction								
Prior to 1919			From 1919 to 1948			After 1948		
Zone 1	Zone 2	Zone 3	Zone 1	Zone 2	Zone 3	Zone 1	Zone 2	Zone 3
90	45	40	185	140	130	285	230	220

The 1955 value of meeting rooms or theatres constituting a separate unit in a building complex shall be determined in accordance with the same procedures.

(4) Other industrial, commercial or craft industry premises shall be classified, in four categories, depending on their nature:

- *Category I:* Industrial, commercial or craft industry premises not fitted out to provide permanent accommodation for staff, such as sheds, garages and warehouses;
- *Category II:* Industrial, commercial or craft industry premises used as manufacturing or repair shops, fitted out to provide permanent premises for light machine tools and workers using such equipment;
- *Category III:* Industrial premises used as manufacturing or repair shops, fitted out to provide permanent premises for heavy machine tools and workers using such equipment;
- *Category IV:* Service buildings located within industrial or commercial facilities.

The 1955 value of such premises shall be equal to the product of the number of square metres of the overall area of the building multiplied by the unit value for the category and year of construction, in accordance with the following table:

(In French francs)			
Categories			
I	II	III	IV
50	75	100	150

Undeveloped sites forming part of such premises shall be appraised at 10 francs per square metre in zone 1, and at 5 francs per square metre in zones 2 and 3 (1955 value).

SPECIAL AGREEMENT BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF TUNISIA

The Government of the French Republic and
The Government of the Republic of Tunisia,

With reference to their Agreement of 23 February 1984, have agreed as follows:

Article 1. This Special Agreement, concluded in implementation of the Agreement of 23 February 1984, the provisions of which fully apply thereto, establishes the specific conditions for the transfer to the Tunisian State or its representative of a complex of subsidized housing, undeveloped sites, and commercial, industrial and craft industry premises, situated in the Governorate of Bizerte and belonging to French nationals or bodies corporate under French law which accept the public offer of purchase made to them. It also establishes the conditions for payment of the sums relating to such transfers.

This Agreement shall also apply on the same conditions to bodies corporate under Tunisian law in which French individuals or bodies corporate have an interest.

Article 2. The Tunisian Government shall entrust the National Building Society of Tunisia (SNIT) with the implementation of the provisions set out in this Special Agreement.

SNIT shall act in the name and on behalf of the Tunisian Government, which shall take all the requisite legal action to that end.

Article 3. SNIT shall make a public offer in the amount of 40 million francs, for the acquisition of a complex of housing classified in categories I and II of the Annex to the Agreement of 23 February 1984, as well as of the other property referred to above.

The contracts for the transfer of the property in question shall be completed between the French owners and SNIT.

The property covered by the public offer of purchase shall be specified in an exchange of letters constituting an agreement between the Parties.

The two Governments shall take the necessary measures to ensure that the owners concerned are properly informed and to facilitate the identification of the owners.

Article 4. The transfer price paid to the owner of the property shall be net of all taxes and duties.

It shall be equivalent:

- In the case of the housing and commercial, industrial and craft industry premises, to the 1955 value of the said property as determined by the application of the provisions of the Annex to the Agreement of 23 February 1984, multiplied by a coefficient of 2;
- In the case of the undeveloped sites and appurtenances of individual houses, to 20 francs per square metre.

Article 5. The Tunisian State shall effect payment in France of the purchase price of the housing by drawing on the mixed credits made available by the Government of the French Republic to the Government of the Republic of Tunisia in the amount of 40 million francs.

The conditions and the arrangements for utilizing such funding shall be specified in the credit agreement.

Article 6. This Agreement is concluded for a period of three years. A joint review of the implementation of the provisions of this Agreement may be conducted at the request of either Party.

Article 7. Each Government shall notify the other when the constitutional procedures required for the entry into force of this Agreement have been completed. The Agreement shall enter into force on the first day of the second month following the date of the second such notification.

DONE at Paris, on 23 February 1984, in two copies.

For the Government
of the French Republic:

[CHRISTIAN NUCCI]

Minister responsible to the Minister for
Foreign Affairs for Co-operation and
Development

For the Government
of the Republic of Tunisia:

[Signed]

BEL HADJ
Minister of Housing