

No. 24621

**FRANCE
and
SUDAN**

**Agreement on the reciprocal promotion and protection of
investments. Signed at Paris on 31 July 1978**

Authentic texts: French and English.

Registered by France on 20 February 1987.

**FRANCE
et
SOUDAN**

**Convention sur l'encouragement et la protection réciproques
des investissements. Signée à Paris le 31 juillet 1978**

Textes authentiques : français et anglais.

Enregistré par la France le 20 février 1987.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF FRANCE AND THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF THE SUDAN ON THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of France and the Government of the Democratic Republic of the Sudan,

Desiring to strengthen the economic co-operation between both States and to create favourable conditions for French investments in the Democratic Republic of the Sudan and Sudanese investments in France,

Recognizing that promotion and protection of such investments are apt to stimulate the flow of capital and technology between both States to the benefit of their economic prosperity,

Have agreed as follows:

Article 1. In this Agreement, the following words and expressions shall have the meaning respectively assigned to them:

(1) The term “investment” means every kind of goods, rights and interests and in particular, though not limited to, includes :

a. Movable and immovable property as well as any other rights in rem, such as mortgages, liens, usufructs, pledges and similar rights;

b. Shares, issue premiums and other kinds of interests even in minority or indirect form in companies constituted in the territory of either Party;

c. Debentures, titles to money or titles to any performance having an economic value;

d. Copy-rights, industrial property rights, technical processes, trade names and goodwill;

e. Business concessions conferred by law or under contract, including concessions for prospection, cultivation, extraction, utilization or development of natural resources, including those which are located in the adjacent maritime areas in which the contracting Parties exercise sovereign rights;

it being understood that those assets shall have been invested in accordance with the legislation of the contracting Party in the territory of which the investment is made, prior or subsequent to the entering into force of this Agreement.

Notwithstanding the above provisions of paragraph (1) of this Article, any alteration of the form in which assets are invested shall not affect their qualification of investment provided that such alteration is not in conflict with the legislation of the State in the territory of which the investment is made and with the approval granted for the initial investment.

(2) The term “nationals” means natural persons possessing the nationality of one contracting Party.

(3) The term “companies” means any legal person constituted in the territory of either contracting Party in accordance with its legislation and having its legal head office therein.

¹ Came into force on 5 July 1980, i.e., one month after the exchange of the instruments of approval, which took place on 13 February and 5 June 1980, in accordance with article 13.

Article 2. Each contracting Party shall admit and encourage in its territory, in accordance with its legislation, investments made by nationals or companies of the other contracting Party.

Article 3. Each contracting Party undertakes to ensure fair and equitable treatment in its territory in accordance with the principles of international law, to investments made by nationals and companies of the other contracting Party and shall ensure that the exercise of the right thus recognized is not hindered either in law or in practice.

This treatment shall be at least the same as that accorded by each contracting Party to nationals or companies of the most favoured nation.

Article 4. Nationals or companies of one contracting Party shall be subject as regards their professional and economic activities in connection with their investment made in the territory of the other Party, to national treatment or treatment of the most favoured nation whichever is more favourable.

Article 5. Neither of the contracting Parties shall take measures of expropriation or nationalization, or any other measures the effect of which would be to dispossess directly or indirectly the nationals or companies of the other contracting Party, of any investment belonging to them in its territory, except in the public interest and provided that these measures are not discriminatory to the interests of the other country.

Any measures of dispossession which may be taken shall give rise to payment of adequate compensation, the amount of which shall correspond to the real value of the investments concerned on the date of dispossession.

This compensation, its amount and the payment conditions shall be fixed no later than six months after the day of dispossession and shall be effectively realizable. It shall be paid and transferable without delay.

Article 6. Each contracting Party in the territory of which investments have been made by nationals and companies of the other contracting Party, shall grant these nationals and companies the transfer without delay of:

- a) Returns;
- b) Royalties deriving from incorporeal rights as defined in article (1) above;
- c) Instalments for repayment of loans which are regularly contracted;
- d) Proceeds from the total or partial conveyance or liquidation of the investment, including the appreciation or increase of the invested capital;
- e) Compensation for dispossession as provided for in article 5 above.

The nationals of either contracting Party who have been authorized to work in the territory of the other contracting Party in relation to an agreed investment shall also be authorized to transfer to their country of origin an appropriate proportion of their remuneration.

The transfers referred to in the preceding paragraphs shall be effected without delay and at the official exchange rate applicable on the date of transfer.

Article 7. To the extent that the regulations of one of the contracting Parties provide for a guarantee for investments made abroad, this guarantee may be granted within the framework of an examination made case by case to investments made by nationals or companies of this Party in the territory of the other Party.

Investments made by nationals or companies of one contracting Party in the territory of the other Party may not obtain the guarantee referred to in the above paragraph unless they have previously obtained the agreement of the latter Party.

Article 8. Each contracting Party agrees to submit to the jurisdiction of the International Centre for the Settlement of Investments Disputes (ICSID) the disputes arising between that contracting Party and a national or a company of the other contracting Party, including cases where this Party is subrogated in the rights of its nationals or companies according to the provisions of Article 9 of this Agreement.

Article 9. If one contracting Party, pursuant to a guarantee given for an investment made in the territory of the other Party, makes payments to its own nationals or companies, the first mentioned Party is thereby subrogated to the rights and actions of the said nationals or companies. The subrogation to the rights shall also extend to the transfer and arbitration rights referred to in Articles 6 and 8 above.

Article 10. Investments having formed the subject of a special commitment of one contracting Party with respect to the nationals or companies of the other Party, shall be governed, without prejudice to the provisions of this Agreement, by the terms of the said commitment if the latter includes provisions more favourable than those of the present Agreement.

Article 11. The most favoured nation treatment referred to in Articles 3 and 4 of the present Agreement shall not extend to privileges that a contracting Party grants to nationals or companies of a third State as a result of its participation or its association in a customs union, a common market or a free trade area.

Article 12. Any dispute relating to the interpretation of, or the application of this Agreement, which shall not have been settled amicably through diplomatic channels within a period of six months, may be submitted, at the request of either contracting Party, to an arbitral tribunal to be constituted as follows:

Each contracting Party shall appoint one arbitrator within one month from the receipt of the request for arbitration. The two arbitrators thus appointed shall appoint a third arbitrator within two months from the date of notification by the last of the two Parties to appoint its arbitrator. The third arbitrator so appointed shall be a national of a third country.

If the periods specified in the above paragraph have not been complied with, either contracting Party in the absence of any other applicable agreement shall request the President of the International Chamber of Commerce in Geneva to make the necessary appointments.

The tribunal shall reach its decisions by a majority of votes. The decision of the arbitral tribunal shall be final and legally binding. The tribunal shall establish its own procedures.

Each contracting Party shall bear the costs of its own arbitrator. The costs of the third arbitrator, and the other costs shall be borne equally by both contracting Parties.

Article 13. The present Agreement shall be approved or ratified in accordance with the constitutional requirements applicable in both States; the instruments of ratification or approval shall be exchanged as soon as possible.

This Agreement shall enter into force one month after the date of the exchange of instruments of ratification or approval.

The present Agreement shall be in force for an initial period of ten years. It shall remain in force thereafter that period unless one of the contracting Parties gives one year's written notice of termination by diplomatic channels.

In case of termination, this Agreement shall continue to apply to investments made before the termination.

IN WITNESS WHEREOF the representatives of both Governments, duly authorised thereto, have signed this Agreement on the date and year hereinafter mentioned.

DONE in Paris the 31st of July 1978 in two original copies, each in French and in English, both texts being equally authentic.

For the Government
of the Republic of France:

[Signed]¹

For the Government
[of] the Democratic Republic
of the Sudan:

[Signed]²

¹ Signed by René Monory.

² Signed by O. M. Abdel Salam.