

No. 32680

**FRANCE
and
UNITED ARAB EMIRATES**

Agreement concerning the reciprocal promotion and protection of investments (with protocol). Signed at Paris on 9 September 1991

Authentic texts: French and Arabic.

Registered by France on 29 February 1996.

**FRANCE
et
ÉMIRATS ARABES UNIS**

Accord sur l'encouragement et la protection réciproques des investissements (avec protocole). Signé à Paris le 9 septembre 1991

Textes authentiques : français et arabe.

Enregistré par la France le 29 février 1996.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE FRENCH REPUBLIC AND THE UNITED ARAB EMIRATES CONCERNING THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the French Republic and the Government of the United Arab Emirates, hereinafter referred to as “the Contracting Parties”,

Desiring to develop economic cooperation between the two States and to create favourable conditions for French investments in the United Arab Emirates and for investments of the United Arab Emirates in France,

Convinced that the promotion and protection of such investments are likely to stimulate transfers of capital and technology between the two countries in the interest of their economic development,

Have agreed as follows:

Article 1

DEFINITIONS

For the purposes of this Agreement:

1. The term “investment” shall apply to assets such as property, rights and interests of any category, and particularly, but not exclusively, to:

(a) Movable and immovable property and all other real rights such as mortgages, preferences, usufructs, sureties and similar rights;

(b) Shares, issue premiums and other forms of participation, albeit minority or indirect, in companies constituted in the territory of either Contracting Party;

(c) Bonds, claims and rights to any benefit having an economic value;

(d) Copyrights, industrial property rights (such as patents for inventions, licences, registered trade marks, industrial models and designs), technical processes, registered trade names and goodwill;

(e) Concessions accorded by law or by virtue of a contract, including concessions to prospect for, cultivate, mine or develop natural resources, including those situated in the maritime zones of the Contracting Parties.

It being understood that the said assets shall be or shall have been invested, in conformity with the legislation of the Contracting Party in whose territory or maritime zone the investment is made, before or after the entry into force of this Agreement.

Any change in the form in which assets are invested shall not affect their status as an investment, provided that the change is not contrary to the legislation of the Contracting Party in whose territory or maritime zone the investment is made.

¹ Came into force on 10 January 1995, i.e., one month after the date of receipt of the last of the notifications by which the Parties had informed each other of the completion of the required internal procedures, in accordance with article 13.

2. The term “investor” shall mean: any national or company of either Contracting Party or the Government of either Contracting Party.

3. The term “nationals” shall mean individuals bearing the nationality of either Contracting Party.

4. The term “company” shall mean any body corporate constituted in the territory of one Contracting Party in accordance with that Party’s legislation and having its registered office there, or effectively controlled, directly or indirectly, by nationals of one Contracting Party, or by bodies corporate having their registered office in the territory of one Contracting Party and constituted in accordance with that Party’s legislation.

5. The term “income” shall mean all the amounts yielded by an investment, such as profits, royalties, dividends, appreciation or interest, during a given period.

Income from investment and, in the event of reinvestment, income from its reinvestment shall enjoy the same protection as the investment itself.

6. The term “related activities” shall mean all activities related to the administration, maintenance, enjoyment and liquidation of investments, particularly the organization, supervision, operation, maintenance and transfer of bodies corporate, branches, agencies, offices, factories or other facilities used for the conduct of business and for the acquisition, use, protection and sale of property of any kind, including intellectual and industrial property rights, as well as loans, the purchase and issuing of shares and acquisition of foreign currency for the purposes of importing, in accordance with national laws and regulations.

7. This Agreement shall apply to the territory of each of the Contracting Parties and to the maritime zone of each of the Contracting Parties, hereunder defined as the economic zone and the continental shelf extending beyond the limit of the territorial waters of each of the Contracting Parties and over which they have, in accordance with international law, sovereign rights and jurisdiction for the purpose of prospecting for, exploiting and conserving natural resources.

Article 2

PROMOTION OF INVESTMENT

Each Contracting Party shall permit and promote, in accordance with its legislation and with the provisions of this Agreement, investments made in its territory and maritime zone by investors of the other Party.

Article 3

JUST AND EQUITABLE TREATMENT

Each Contracting Party shall undertake to accord in its territory and maritime zone just and equitable treatment, in accordance with the principles of international law, to the investments of investors of the other Party and to ensure that no unjust or discriminatory measure is taken that might interfere, either *de jure* or *de facto*, with the administration, maintenance, enjoyment or liquidation of these investments.

Article 4

NATIONAL TREATMENT AND THE MOST FAVOURED NATION CLAUSE

Each Contracting Party shall accord in its territory and maritime zone to investors of the other Party, in respect of their investments and related activities, treatment that is no less favourable than that accorded to its own investors or treatment accorded to investors of the most-favoured nation, if the latter is more advantageous. For this purpose, nationals who are authorized to work in the territory and maritime zone of either Contracting Party shall be entitled to enjoy the appropriate material facilities for the exercise of their professional activities.

Such treatment shall not, however, include privileges which may be extended by a Contracting Party to investors of a third State by virtue of its participation in or association with a free trade area, customs union, common market or any other form of regional economic organization.

Article 5

SPECIFIC UNDERTAKINGS

Investments which have been the subject of a specific undertaking by one Contracting Party vis-à-vis investors of the other Contracting Party shall be governed, without prejudice to the provisions of this Agreement, by the terms of that undertaking insofar as its provisions are more favourable than those laid down by this Agreement.

Article 6

EXPROPRIATION, NATIONALIZATION AND DISPOSSESSION MEASURES

1. The investments of investors of either Contracting Party shall be fully and completely protected and safeguarded in the territory and maritime zone of the other Contracting Party.

2. Neither Contracting Party shall take any expropriation or nationalization measures or any other measures, of whatever kind or field of application, which could cause the investors of the other Party to be dispossessed, directly or indirectly, of their investments in its territory or maritime zone, except for reasons of public necessity and on condition that those measures are taken in accordance with its legislation and are not discriminatory or contrary to a specific undertaking.

Any such dispossession measures taken shall give rise to the payment of prompt and adequate compensation, the amount of which, calculated on the basis of the real value of the investments concerned, shall be assessed on the basis of a normal economic situation prior to any threat of dispossession.

The amount and methods of payment of such compensation shall be determined not later than the date of dispossession. The compensation shall be readily convertible, paid to the investor concerned without delay and freely transferable. It shall yield, up to the date of payment, interest calculated at the rate approved by the Contracting Parties.

3. Investors of either Contracting Party whose investments have suffered losses as a result of war or any other armed conflict, revolution, state of national emergency or uprising or any other similar situation in the territory or maritime zone of the other Contracting Party, shall be accorded by the latter Party treatment which is no less favourable than that accorded to its own investors or to investors of the most-favoured nation.

Article 7

TRANSFERS

A Contracting Party in whose territory or maritime zone investments have been made by nationals or companies of the other Contracting Party shall accord to such investors freedom of transfer of:

- (a) Interest, dividends, profits and other current income;
- (b) Royalties deriving from the intangible property listed in article 1, paragraph 1, subparagraphs (d) and (e);
- (c) Payments made towards the repayment of duly contracted loans;
- (d) Proceeds of the transfer or complete or partial liquidation of the investment, including appreciation of the invested capital;
- (e) Compensation for dispossession or loss, as provided for under article 6, paragraphs 2 and 3 above.

Nationals of either Contracting Party who have been authorized to work in the territory or maritime zone of the other Contracting Party in connection with an approved investment shall also be authorized to transfer to their country of origin an appropriate portion of their remuneration.

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

Article 8

INVESTMENT GUARANTEES

Insofar as the regulations of one Contracting Party provide for guaranteeing external investments, a guarantee may be granted, on the basis of a case-by-case review, for investments made by nationals or companies of that Party in the territory or maritime zone of the other Contracting Party.

Investments made after the entry into force of the present Agreement by nationals or companies of one Contracting Party in the territory or maritime zone of the other Party may be granted the guarantees provided for in the preceding paragraph only with the prior consent of the latter Party.

Article 9

SETTLEMENT OF INVESTMENT DISPUTES

1. Any dispute relating to investments between one Contracting Party and an investor of the other Contracting Party shall, as far as possible, be settled amicably between the two parties concerned.

2. If any such dispute cannot be settled within six months of the time when a claim is made by one of the parties to the dispute, it shall, at the request of either party, be submitted to the International Centre for Settlement of Investment Disputes (ICSID), established by the Convention on the settlement of investment disputes between States and nationals of other States opened for signature in Washington on 18 March 1965.¹

3. If the Convention referred to in the previous paragraph cannot be applied, the dispute shall be settled by an *ad hoc* tribunal, which shall be constituted as follows:

(a) Each party to the dispute shall designate one member and the two said members shall, by agreement, designate a national of a third State, who shall be appointed Chairman by the two parties. All the members must be appointed within two months of the date on which one Contracting Party notifies the other Contracting Party of its intention to submit the dispute to arbitration;

(b) If the time limits established in subparagraph (a) above are not observed, either Contracting Party shall, in the absence of any applicable agreement, invite the President of the International Chamber of Commerce in Paris to make the necessary appointments;

(c) The arbitration tribunal shall take its decisions by majority vote. Such decisions shall be final and *ipso facto* binding on the parties.

The tribunal shall adopt its own rules of procedure. It shall interpret the award at the request of either party. Unless the tribunal decides otherwise, taking particular circumstances into consideration, the cost of the arbitral proceedings, including the arbitrators' fees, shall be divided equally between the Parties.

Article 10

SUBROGATION

If one Contracting Party, by virtue of a guarantee issued in accordance with article 8 of this Agreement in respect of an investment in the territory or maritime zone of the other Party, makes payments to one of its own nationals or companies, it shall thereby assume the rights and claims of the said national or company.

Such payments shall be without prejudice to the rights of the beneficiary of the guarantee to have recourse to ICSID or to pursue actions brought before that body until the procedure has been completed.

¹ United Nations, *Treaty Series*, vol. 575, p. 159.

Article 11

CONSULTATION

Each Contracting Party may propose to the other Contracting Party consultations concerning any matter relating to the substance, interpretation or application of this Agreement. The other Contracting Party shall take all necessary steps to facilitate such consultations in a prompt manner.

Article 12

SETTLEMENT OF DISPUTES BETWEEN THE CONTRACTING PARTIES

1. Disputes concerning the interpretation or application of this Agreement shall, as far as possible, be settled through the diplomatic channel.

2. If a dispute cannot be settled within six months of the time when a claim is made by one of the Contracting Parties, it shall be submitted, at the request of either Contracting Party, to an arbitral tribunal.

3. The said tribunal shall, in each separate case, be constituted as follows:

Each Contracting Party shall designate one member and the two said members shall, by agreement, designate a national of a third State, who shall be appointed Chairman by the two Contracting Parties. All the members shall be appointed within two months of the date on which one Contracting Party notifies the other Contracting Party of its intention to submit the dispute to arbitration.

4. If the time limits established in article 12, paragraph 3, above are not observed, one Contracting Party shall, in the absence of any agreement, invite the Secretary-General of the United Nations to make the necessary appointments. If the Secretary-General is a national of either Contracting Party, or if, for any other reason, he is prevented from performing that function, the most senior Under-Secretary-General shall, provided that he is not a national of either Contracting Party, make the necessary appointments.

5. The arbitral tribunal shall take its decisions by majority vote. Such decisions shall be final and *ipso facto* binding on the Contracting Parties.

The tribunal shall adopt its own rules of procedure. It shall interpret the award at the request of either Contracting Party. Unless the tribunal decides otherwise, taking particular circumstances into consideration, the cost of the arbitral proceedings, including the arbitrators' fees, shall be divided equally between the Parties.

Article 13

ENTRY INTO FORCE, DURATION AND EXPIRY

Each Party shall notify the other of the completion of the respective internal procedures required by it for the entry into force of this Agreement, which shall take effect one month after the date of the receipt of the last such notification.

This Agreement is concluded for an initial period of 10 years. It shall remain in force thereafter unless either Party denounces it through the diplomatic channel, giving one year's notice.

Upon the expiry of the validity of this Agreement, investments made while it was in force shall continue to be protected by its provisions for an additional period of 20 years.

DONE at Paris on 9 September 1991, in duplicate in the French and Arabic languages, both texts being equally authentic.

For the Government
of the French Republic:

ROLAND DUMAS
Minister of State for Foreign Affairs

For the Government
of the United Arab Emirates:

RACHED ABDALLAH
Minister for Foreign Affairs

PROTOCOL

On the occasion of the signature of the Agreement between the Government of the French Republic and the Government of the United Arab Emirates concerning the reciprocal promotion and protection of investments, it was agreed that the interpretation of this Agreement is as follows:

1. *Article 1, paragraph 2:*

With regard to the United Arab Emirates, the term “Government” shall mean the Federal Government and local authorities of the United Arab Emirates.

2. *Article 3:*

(a) It is agreed that the Contracting Parties shall consider any restriction on the purchase and transport of raw materials or secondary materials and of means of production and operation of any kind, any unjust and discriminatory interference with the sale and transport of products within the country and abroad, and any other measure having a similar effect, as *de jure* or *de facto* impediments to just and equitable treatment;

(b) The Contracting Parties shall, within the framework of their domestic legislation, give favourable consideration to requests for entry and permission to reside, work and travel submitted by nationals of one Contracting Party, in connection with an investment in the territory of the other Contracting Party.

3. *Article 6:*

The interest rate approved by the Contracting Parties shall be the official interest rate set for Special Drawing Rights by the International Monetary Fund.

The foregoing provisions are an integral part of this Agreement.

DONE at Paris on 9 September 1991, in duplicate in the French and Arabic languages, both texts being equally authentic.

For the Government
of the French Republic:

ROLAND DUMAS

For the Government
of the United Arab Emirates:

RACHED ABDALLAH