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rocco Bilateral Investment Treaty

On January 1, 2016, the date ten years after the entry into force of the rocco-United States ree Trade Agreement (FTA), the dispute settlement provisions of the Morocco-United States Bilateral Investment Treaty's (BIT) [Articles VI and VII] were suspended in their entirety. Article 1.2(4) of the TA had provided that the BIT's dispute settlement provisions would remain in effect for 10 years after the entry into force of the TA for certain investments and investment disputes.

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Signed July 22, 1985; Entered into Force May 29, 1991

99th CONGRESS, 2d Session SENATE M

INVESTMENT TREATY WITH MOROCCO

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES M

TRANSMITTING

THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF MOROCCO CONCERNING THE ENCOURAGEMENT AND RECIPROCAL PROTECTION OF INVESTMENTS, WITH PROTOCOL, SIGNED AT WASHINGTON ON JULY 22 ,1985

March 25, 1986.-Treaty was read the first time and, together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate M

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1986

LETTER OF TRANSMITTAL M

THE WHITE HOUSE, March 25, 1986. M

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the United States of America and the Kingdom of Morocco Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol, signed July 22, 1985 at Washington. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Treaty.

This treaty is among the first six treaties to be transmitted to the Senate under the Bilateral Investment Treaty (BIT) program which I initiated in 1981. The BIT program is designated to encourage and protect U.S. investment in developing countries. This Treaty is an integral part to encourage Morocco and other governments to adopt macroeconomic and structural policies that will promote economic growth. It is also fully consistent with U.S. M policy toward international investment. That policy holds that an open international investment system in which participants respond to market forces provides the best and most efficient mechanism to promote global economic development A specific tenet, reflected in this treaty, is that U.S. direct investment abroad and foreign M investment in t e nite t tes s oul receive f ir, equit ble, n non- iscrimin tory tre tment. n er t is tre ty, t e p rties lso gree to intern tion l l w st n r s for expropri tion n compens tion; free fin nci l tr nsfers; n proce ures, inclu ing intern tion l rbitr tion, for t e settlement of investment isputes.

I recommen t t t e en te consi er t is re ty s soon s possible, n give its vice n consent to r tific tion of t e re ty, wit Protocol n rel te exc nge of letters, t n e rly te.

RONALD REAGAN.

LE ER OF BMI AL

DEPAR MEN OF A E, T

Was ington, Febru ry 20, 1986.

e PRE IDEN ,

e White House

HE PRE IDEN :

I ve t e onor to submit to you t e re ty Between t e nite t tes of Americ n t e King om of Morocco Concerning t e Reciproc l Encour gement n Protection of Investment, wit Protocol n rel te exc nge of letters, signe t Was ington July 22, 1986. is tre ty is mong t e first six tre ties to be negoti te un er t e bil ter l investment tre ty (BI) progr m w hic you initi te in 1981. Development of t e BI progr m n t e negoti tion of t e in ivi u l tre ties ve been pursue by t e Office of t e nite t tes r e Represent tive n t e Dep rtment of t te wit t e ctive p rticip tion of t e Dep rtments of Commerce n re sury, in conjunction wit ot er intereste . . Government gencies. I recommen t t t is tre ty, s well s t e ot ers conclu e wit t e Republic of H aiti, t e Republic of P n ma, t e Republic of eneg l, Republic of urkey, n t e Republic of Z ire, be submitte to t e en te for its vice n consent to r tific tion.

In 1981 you initi te t e glob l bil ter l investment tre ty (BI) progr m to encour ge n protect . . investment in eveloping countries. By provi ing cert in mutu l gu r ntees n protections, BI cre tes more st ble n pre ict ble leg l fr mework for foreign investors in t e territory of e c of t e tre ty P rties. e negoti tion of series of bil ter l tre ties wit intereste countries est blis es gre ter intern tion l iscipline in t e investment re .

e BI s w hic ve been signe s well s ot ers un er negoti tion re n integr l p rt of . . efforts to encour ge ot er governments to opt macroeconomic n structur l policies t t will promote economic growt . ey re lso fully consistent wit your policy st tement on intern tion l investment of eptember 9, 1983, w hic st tes t t intern tion l irect investment flows s oul be etermine by priv te market forces n s oul receive f ir, equit ble n non- iscrimin tory tre tment.

Our experience to te s s own t t intereste countries re willing to provi e . . investors wit signific nt investment gu r ntees n ssur nces s w ay of in ucing ition l foreign investment. It is . . policy to vise potenti l tre ty p rtners t t conclusion of BI wit t e nite t tes is n import nt n f vor ble f ctor in t e investment rel tions ip, but oes not in of itself result in imme i te incre ses in . investment flows. .

Congression l support for t e BI progr m is reflecte in ection 601( ) n (b) of t e Foreign Assist nce Act, s men e , in p rticul r t ection 601(b) w hic provi es:

In or er to encour ge n f cilit te p rticip tion by priv te enterprise to t e maximum extent pr ctic ble in c ieving ny of t e purposes of t is Act, t e Presi ent s ll...(3) cceler te progr m of negoti ting tre ties for commerce n tr e, inclu ing t x tre ties, w hic s ll inclu e provisions to encour ge n f cilit te t e flow of priv te investment to, n its equit ble investment in, frien ly countries n re s p rticip ting in progr ms un er t is Act. T

BITs are s s e purp se wih he e work f rea es f Fr e dsh p, C mmer e a d Nav ga (FCNs) wh h he U ed S a es eg a ed fr m he ear y years f he Repub u he as su essfu eg a s wih Tha a d a d T g he a e 1960s. They ue he U.S. p y f se ur g by agreeme s a dards f equ ab e rea me a d pr e f U.S. ze s arry g bus ess abr ad, a d s u a z g pr esses f r he se eme f d spu es be wee ves rs a d h s u r es, a d be wee g ver me s. We expe ha a ser es f b a era rea es wih eres ed u r es wi es ab sh grea er er a a d s p e he ves me area.

The BIT was des g ed pr e ves me y by rea y bu a s by re f r g rad a er a a ega pr p es a d pra e regard g f re g d re pr va e ves me . I pursu f h s bje ve, he mode BIT ad p s FCN a guage a d ep s. Trad a FCN pr v s s gra g r gh s wh h are mp r a he yp a U.S. ves r were e mi a ed a d rep a ed wih more spe f a guage er g ves me pr e . Perhaps mos s g f a y, he BIT g es bey d he rad a FCN pr v de ves r-h s u ry arb ra s a es where a ves me d spu e ar ses.

Our BIT appr a h f wed s mi ar pr grams ha had bee u der ake wih s derab e su ess by a umber f Eur pea u es, ud g he Federa Repub f Germa y a d he U ed K gd m, s e he ear y 1960s. I deed, ur dus r a zed par ers a ready have ear y wo hu dred BITs f r e, pr mar y wih deve p g u r es. Our rea es, wh h draw up a guage used he U.S. FCN rea es as we as Eur pea u erpar s, are more mprehe s ve a d far-rea h g ha Eur pea BITs.

THE UNITED STATES-MOROCCO TREATY

The Trea y wih Mor was eg a ed by a er-age y eam ed by ff a s fr m he Off e f he U ed S a es Trade Represe a ve a d he Depar me f S a e. The Trea y sa sf es a f ur ma BIT bje ves:

f re g ves rs are be a rded rea me a rda e wih er a a aw a d are be rea ed ess fav rab e ha ves rs f he h s u ry r ess fav rab y ha ves rs f h rd u r es, wh hever s he mos fav rab e rea me , (a a a d mos -fav red- a rea me) subje er a spe f ed exemp s;

er a a aw s a dards sha app y he expr pr a f ves me s a d he payme f mpe sa f r expr pr a ;

free ra sfers sha be aff rded fu ds ass a ed wih a ves me a d u f he h s u ry; a d

pr edures are be es ab shed wh h a w a ves r ake a d spu e wih a Par y d re y b d g h rd-par y arb ra .

The pr v s s rea me f f re g ves me a d arb ra , a d par u ar Mor 's a ep a e f er a a aw as he g ver g aw, mark a mp r a a h eveme f r he BIT pr gram a d ur ves me a d er a a arb ra p es.

A e h a memora dum exp a g de a he pr v s s f h s rea y wi be ra smi ed separa e y he Se a e C mmi ee F re g Re a s. Tha e h a memora dum exp a s, ause by ause, he pr v s s f he rea y wih Mor .

S me pr v s s f he rea y wih Mor d ffer mi r respe s fr m he U.S. mode ex . I ge era , h wever, he rea y se y f ws he a guage a ed he U.S. mode ex , he mos s g f a pr v s s f wh h are as f ws.

The mode BIT's def se ar f ed erms su h as mpa y f a Par y a d ves me The BIT ep f ves me s br ad a d des g ed be f ex b e; a h ugh umer us ypes f e mi eres s are e umera ed, l he e s ude a eg ma e eres s he err ry f e her Par y, whe her d re y r d re y r ed by a a s f he her, hav g e mi va ue r ass a ed wih a ves me . Pr e ed mpa es f a Par y are h se rp ra ed r herwise rga zed u der he aws f a Par y wh h a a s f ha Par y have a subs a a eres .

The model T o ds the bette of n tion l o most-f vo ed-n tion (MFN) t e tment of fo eign investment, subje t to e h P t 's ex eptions whi h e listed in sep te Annex. The ex eptions e designed to p ote t st te egul to inte ests nd fo the United St tes to ommod te the de og tions f om n tion l t e tment in st te o fede l l w el ting to su h e s s i t nspo t, shipping, b nking, tele ommuni tions, ene g nd powe p odu tion, insu n e, nd f om n tion l nd MFN t e tment in the se of owne ship of e l p ope t . An ddition l est i tions o limit tions whi h P t ma dopt with espe t to those matte s o se to s ex epted f om the st nd ds e not to ffe t existing investments. The T lso in ludes gene l t e tment p ote tions designed to be guide to inte p et tion nd ppli tion of the t e t . Thus, the P ties g ee to o d investments f i nd equit ble t e tment nd full p ote tion nd se u it in no se less th n th t equi ed b inte n tion l l w. t spe ifi ll g nts n tion ls of P t the ight to est blish investments in the te ito of the othe P t , est i ts the ight to impose pe fo man e equi ements, nd obliges P ties to obse ve thei ont tu l oblig tions with investo s. The U.S. model lso p ovides th t omp nies leg ll onstituted unde the l ws of the othe P t (i.e., subsidi ies of omp nies of P t) with investments in th t ount sh ll be pe mitted to eng ge top man ge i l pe sonnel of thei hoi e, eg dless of n tion lit .

The model T lso onfe s p ote tion f om unl wful inte fe en e with p ope t inte ests nd ssu es ompens tion in o d n e with inte n tion l l w st nd ds. t p ovides th t n di e t o indi e t t king must be: fo publi pu pose; nondis imin to ; omp nied b the p ment of p ompt, dequ te nd effe tive ompens tion; nd in o d n e with due p o ess of l w nd the gene l st nd ds of t e tment dis ussed bove. The T's definition of exp op i tion is b o d nd flexible; essenti ll n me su e eg dless of fo m, whi h h s the effe t of dep iving n investo of his man gement, ont ol o e onomi v lue in p oje t ma onstitute n exp op i tion equi ing ompens tion equ l to the f i ma ket v lue. Su h ompens tion, whi h sh ll not efle t n edu tion in su h f i ma ket v lue due to... the exp op i to tion, must be without del , effe tivel e liz ble, f eel t nsfe ble nd be u ent inte est f om the d te of the exp op i tion t te equ l to u ent inte n tion l tes. The T g nts the ight to p ompt eview b the elev nt judi i l o dminist tive utho ities in o de to dete mine whethe the ompens tion offe ed is onsistent with these p in iples. t lso extends n tion l nd MFN t e tment to investo s in ses of loss due to w a o othe ivil distu b n e. The T does not p ovide, howeve , spe ifi v lu tion method fo ompens ting su h losses.

The model T p ovides fo f ee t nsfe s el ted to n investment, spe ifi ll of etu ns, ompens tion fo exp op i tion, ont t p ments, p o eeds f om s le, nd ont ibutions to pit l fo mainten n e o development of n investment. Su h t nsfe s e to be made in f eel onve tible u en t the p ev iling ma ket te of ex h nge on the d te of t nsfe with espe t to spot t ns tions in the u en to be t nsfe ed. The model text e ognizes th t notwithst nding this gu ntee, P ties n maint in e t in l ws nd egul tions eg ding t nsfe s p ovided these e pplied in non-dis imin to f shion. n p ti ul , the model text p ovides th t P ties n equi e epo ts of u en t nsfe s nd impose in ome t xes b su h me ns s withholding t x on dividends. The model text lso e ognizes th t P ties et in the ight to p ote t the ights of edito s nd ensu e the s tisf tion of judgments in djudi to p o eedings.

The model T p ovides th t whe e e t in defined investment disputes ise between P t nd n tion l o omp n of the othe p t , in luding disputes s to the inte p et tion of n investment g eement, nd the dispute nnot be solved th ough negoti tion, it ma be submitted to bit tion in o d n e with n dispute-settlement p o edu es to whi h the n tion l o omp n nd the host ount h ve p eviousl g eed. Unless the n tion l o omp n h s submitted the dispute to p eviousl g eed dispute settlement p o edu es o to djudi tion b domesti ou ts o othe t ibun ls of the host ount , the n tion l o omp n ma submit the dispute to the nte n tion l Cent e fo the Settlement of nvestment Disputes (CS D) fo binding bit tion. Exh ustion of lo l emedies is not equi ed. n sep te p ovision, the T P ties lso g ee to g nt n tion ls nd omp nies of the othe P t ess to thei domesti ou ts in o de to sse t l ims nd enfo e ights with espe t to investments.

The model T p ovides fo st te-to-st te bit tion between the P ties in se of dispute eg ding the inte p et tion o ppli tion of the t e t . n the bsen e of n g eement th t othe ules ppl , the T efe s the P ties to spe ifi p o edu l ules whi h must gove n the bit tion. The T lso outlines the p o edu es fo y the e tion of the bit l p nel.

The model T e ho s Pa ies o apply hei a policies fai ly and equi ably. ecause he Uni ed S a es specifically add esses a ma e s in a ea ies, he T gene ally e cludes such ma e s. Ano he T p o ision e emp s dispu es a ising unde E po - mpo ank p og ams, o o he c edi gua an ee o insu ance a angemen s p o iding fo al e na i e dispu e se lemen a angemen s, f om he s anda d T a bi a ion clauses. The model T also s a es ha he ea y shall no de oga e f om any obliga ions ha equi e mo e fa o able ea men of in es men s and decla es ha he ea y shall no p eclude measu es necessa y fo public o de o essen ial secu i y in e es s. The model T en e s in o fo ce 30 days af e e change of a ifica ions and con inues in fo ce fo a leas en yea s. The eaf e , ei he Pa y may e mina e he ea y, subjec o on yea 's w i en no ice.

Each of hese model p o isions was de eloped af e leng hy and e ensi e consul a ions wi hin he U.S. Go e nmen and wi h he p i a e sec o . None heless, in nego ia ing a pa icula ea y, he U.S. Go e nmen e ains, of cou se, some fle ibili y o adop modifica ions as necessa y and in ligh of e pe ience. While he U.S. model e has ecen ly been simplified, he p o isions summa ized abo e ha e all been e ained.

The Mo occan e diffe s in some espec s f om he o he fi e Ts p esen ly being submi ed because i was nego ia ed f om a s eamlined model e which no heless inco po a es he fou objec i es ou lined abo e. Howe e , modifica ions of he Mo occo e do no ep esen majo subs an i e depa u es f om he U.S. model e . The mos no ewo hy changes in he ea y wi h Mo occo a e as follows:

(1) Na ional ea men .- The model e calls fo na ional and mos -fa o ed-na ion (MFN) ea men on es ablishmen . A icle , pa ag aph 1 of he Mo occo ea y equi es MFN ea men on en y fo he o he Pa y's in es o s as a minimum s anda d. Only if i is consis en wi h e is ing laws and egula ions is na ional ea men on en y equi ed. The Mo occan nego ia o s insis ed on qualifying na ional ea men on en y because of owne ship p o isions in hei 1973 in es men law. The effec of his qualifica ion is o p o ide fo MFN ea men fo es ablishing new in es men s, bu he be e of na ional o MFN ea men fo all in es men s once es ablished. This fo mula ion was also used in he T wi h Tu key. Like he o he Ts being submi ed oge he wi h his ea y, his ea y specifically equi es he mo e fa o able of na ional o MFN ea men fo es ablished in es men s of he o he pa y (A icle , pa ag aph 2). This confo ms o he limi ed e cep ions o he na ional ea men s anda d on an MFN basis fo specified economic sec o s and ac i i ies. These e cep ions a e se ou in pa ag aph 1 of he P o ocol and include hose fo which U.S. law will no pe mi he e ension of na ional ea men o fo eign in es o s in he Uni ed S a es. Al hough analogous o he Anne in he model e , he Mo occan P o ocol has no p o ision fo subsequen modifica ions o he e cep ions lis . (This is simila o he app oach p o ided wi h he T wi h Tu key). Unde he U.S. model e , each Pa y may unila e ally add fu u e e cep ions unde sec o s and ma e s iden ified in he anne bu each ag ees o keep such e cep ions o a minimum and o no ify he o he Pa y of hese e cep ions. n con as o his app oach, any changes in he e cep ions lis ed in he Mo occan T would ha e o be made h ough amendmen o he ea y unde A icle X, pa ag aph 5.

Also e epmt f om he na ional ea men equi emen a e ad an ages e ended o o he coun ies by i ue of membe ship in a cus oms ma ke , egional cus oms union o f ee ede associa ion. Cu en ly, Mo occo does no belong o any such associa ion, The concep of a cus om union (O r mone a y union) e cep ion o non-disc imina o y ea men of fo eign in es men pa allels simila p o isions in he ade and mone a y a enas, specifically in he GATT (A icle XX V), he OECD Codes on Cu en n isible Ope a ions (A icle 10) and libe aliza ion of Capi al Mo emen s (A icle 10).

(2) Pe fo mance equi emen s.-The U.S. model e p ohibi s he imposi ion of pe fo mance equi emen s as a condi ion fo es ablishmen . The Mo occo T has a ho a o y s anda d, s a ing ha each Pa y shall seek o a oid pe fo mance equi emen s as a condi ion of es ablishmen . he obliga ion o e po i s p oduc ion o o pu chase p oduc s locally, his being wi hou p ejudice o he gene al impo p og ams and he na ional economic policy of he Pa y. (A icle , pa ag aph 5). Ou Ts wi h Senegal and Hai i ha e simila ho a o y language. These v coun ies ei he ha e o wish o e ain he igh o use some limi ed local con en /e po incen i es o equi emen s as pa of hei na ional economic de elopmen policies.

(3) Expr pr .-The M or cc re y s subs vely de c l he U.S. del ex def whe expr pr s permi ed. Our model ex requ res pr mp , dequ e d effec ve c mpe s , b sed f r marke v lue wh ch s ll be r c mmerc l r e f eres fr m he d e f expr pr . Ar cle III f he M or cc re y requ res pr mp p yme f jus d effec ve c mpe s , equ v le he full v lue f he f he expr pr ed ves me he d e f expr pr . P r r ph 4 f he Pr c l s pul es h he c mpe s sh ll clude, s ppr pr e, mmou c mpe s e f r y del y p yme h may ccur fr m he d e f expr pr . Th s l u e s used cc mmod e Musl m se s v es c cer expl c refere ce he p yme f eres .

The M or cc re y's jus ... c mpe s s d rd s der ved fr m he l u e f ur Tre es f Fr e dsh p, C mmerce d N v (FCN). I h s cle r me , bu l up hr u h jud c l dec s , rb r l w ards, d re y pr c ce, d h s p r cul r c s u l s c eh U ed S es smuch s s he erm empl yed he F f h Amer dme . The re y's full v lue s d rd f r ev lu ves me s he s me s he re y w i h P ma d s c rp r ed he H ickе l per Ame dme (sec 620(e) f he F re Ass s ce Ac f 1961) d he I er g l Cl ms Se leme Ac . I ur v ew, pr v des he s me pr ec s f r marke v lue s d rd.

(4) Tr sfers.-The U.S. model ex c lls f r r sfers be made freely d w i h u del y. Ar cle IV, p r r ph 1 f he M or cc BIT requ res he P r es permi pr mp r sfers f he pr ceeds f ves me . F r he M or cc s de, re ves ed pr f s re subjec u der cer c rcums ces dmi s r ve ppr v l wh ch s pr m r ly pr cedur l ure (Pr c l, p r r ph 5).

(5) D ispu e se leme .-Arv cle VI, p r r ph 3( ) f he M or cc re y de ls w i h he se leme f d spu es be wee U.S. g ls rc mp es d he G over me f M or cc . Th s pr v s permi s he U.S. g l r c mp y submi such d spu e he I er l Ce re f r he Se leme f I ves me D ispu es (ICSID) f er l s x mo h w a per d f e her (1) f l jud me h s bee re dered by he c mpe e M or cc c ur , dmi s r ve r bu l r e cy, r (2) e ye r h s p ssed s ce submiss f such d spu e l c l jud c l r dmi s r ve rev ew. Al h u h h s pr v s requ res v c f l c l remed es, ls ff rds U.S. g ls r c mp es he r h pr ceed ICSID rb r re rdless f he resul he l c l c ur . The U.S. model precludes h rd p r y rb r f he ves r h s submi ed he d spu e d mes c c ur s; d h s pr v s s re ed he M or cc BIT c ses f d spu es be wee M or cc ls r c mp es d he U ed S es. (The ves r h s he r h er l rb r r l eu f U.S. c ur s f he s ch ses.) The purp se f h s pr v s s preve er l r bu l fr m rev ew i jud me s f U.S. c ur s. The selec f ICSID s he rb r l mech sm c rr es ver fr m he U.S. model ex .

Submiss f h s re y, e her w i h he her f ve ed b ve, makes s f c devel pme ur er l ves me p l cy. I j w i h he U ed S es Tr de Represe ve d her U.S. G over me e c es supp r he re y d f v r s r smiss he Se e e rly d e.

Respec fully submi ed. g

GEORGE P. SHULTZ.

TREATY BETWEEN g

THE UNITED STATES OF AMERICA

AND THE KINGDOM OF MOROCCO

CONCERNING THE ENCOURAGEMENT

AND RECIPROCAL PROTECTION OF INVESTMENTS

Pre mble: g

The U ed S es f Amer c d The K d m f M or cc (e ch here f er referred s "P r y") g

Desiring r e gre er ec n mic c er i n be ween hem, r icul rly wi h res ec inves men s by n i n ls nd c nies f ne P r y in he erri ry f n her P r y;

Rec gnizing h gree n u n he re men be cc rded such inves men s will s imul e he fl w f riv e c i l nd he ec n mic devel men f b h P r ies;

C nvinced h he devel men f ec n mic rel i ns be ween he w o c un ries ends cre e f v r ble c ndi i ns f r inves rs fr m e ch f he C n r c ing P r ies in he erri ry f he her P r y;

e

Rec lling h he w o P r ies h ve lre dy c ncluded n greemen in he f rm f n exch nge f n es d ed March 1, 1961, mended by n exch nge f n es signed Oc ber 2, 196 , c ncerning inves men gu r n ies h gh be gr n ed by he Uni ed S es Govern men f r cer in inves n r jec s, s id gree men s ill being in f rce,

H ave res lved c nclude re y c ncerning he reci r c l enc ur ge men nd r ec i n f inves men s; nd

H ave greed s f ll ws: e

ARTICLE I

F r he ur ses f his Tre y, 3

1. "P r ies" me ns he Kingd m f Mor cc , nd he Uni ed S es f A meric .

2. "C 3 ny" me ns ny kind f juridic l en i y, including ny c r r i n, c ny, ss ci i n, r her rg niz i n h is duly inc r r ed, c ns i u ed, r herwise duly rg nized, reg rdless f whe her r n he en i y is rg nized f r ecuni ry g in, riv ely r g vern n lly wned, r rg nized wi h li mi ed r unli mi ed li bili y.

. "C ny f P r y" ns:

( ) In he c se f he Kingd m f Mor cc , c ny duly inc r r ed, c ns i u ed, r herwise duly rg nized under he lic ble l ws nd regul i ns f Mor cc in which:

(i) n ur l ers ns wh re n i n ls f Mor cc , r

(ii) Mor cc r i s gencies r ins ru men li ies

h ve subs n i l in eres .

(b) In he c se f he Uni ed S es, c ny duly inc r r ed, c ns i u ed, r herwise duly rg nized under he lic ble l ws nd regul i ns f he Uni ed S es r i s li ic l subdivisi ns in which:

(i) n ur l ers ns wh re n i n ls f he Uni ed S es, r

(ii) he Uni ed S es (r i s li ic l subdivisi ns) r i s gencies r ins ru men li ies

h ve subs n i l in eres .

E ch P r y reserves he righ deny ny f i s wn c nies r c ny f he her P r y he dv n ges f his Tre y, exce wi h res ec rec gni i n f juridic l s us nd ccess c ur s, if n i n ls f ny hird c un ry c n r l such c ny, r vided h whenever ne P r y c ncludes h he benefi s f his Tre y sh uld n be ex ended c ny f he her P r y f r his re s n, i sh ll r ly c nsul wi h he her P r y seek mu u lly s isf c ry res lu i n f his er.

4. "Inves men " me ns inves men wned r c n r lled by n i n l r c ny f P r y nd includes:

. fin nci l c n ribu i ns in he f r f f reign exch nge r reinves ed r fi s r vided s r ici i n in he c i l f c ny r cquire sh res r ny her in eres in c ny;

b. her c n ribu i ns, fin nci l r in kind, r vided s r ici i n in he c i l f c ny, r cquire sh res, r ny her in eres in c ny; 3

c. intellect l n in t i l p ope ty ight , copy ight , p tent , t ema k , t e n me , in t i l e ign , t e ec et n know-how, n goo will;

. p ovi ion of e vice n conce ion of licen e n pe mit i e p nt to l w o cont ct, incl ing tho e i e fo man f ct e n le of p o ct ;

e. ny ight confe e by l w o cont ct, incl ing ight to e ch fo o tilize e o ce , n ight to man f ct e, e, n ell p o ct ;

f. t ngible n int ngible p ope ty;

g. mo tg ge , lien , n ple ge ; n

h. fin nci l o comme ci l ebt which e oci te with n inve tment.

5. "Owne hip o cont ol" me n owne hip o cont ol th t i i ect o in i ect, incl ing owne hip o cont ol e e ci e th o gh b i i ie o ffili te . In c e of iffe ence , the two P tie h ll n e t ke con lt tion .

6. "N tion l" of P ty me n n t l pe on who i n tion l of P ty n e it pplic ble l w.

7. "P ocee " me n n mo nt e ive i ectly o in i ectly f om n inve tment, ch : x

) E ning f om c pit l, in p tic l p ofit , ivi en , e t ivi en , n ent ;

b) P ocee f om the complete o p ti l le o liq i tion of n inve tment, incl ing c pit l g in ;

c) Roy lty p yment , man gement, technic l i t nce o othe fee ;

) P yment n e cont ct, incl ing inte e t o mo tiz tion p yment on fin nci l o comme ci l lo n .

ARTICLE II

1. E ch P ty h ll pe mit in it te ito y inve tment , n ctivitie oci te the ewith, by n tion l n comp nie of the othe P ty on b i no le f vo ble th n th t cco e in like it tion to inve tment of n tion l o comp nie of ny thi co nt y n , within the f mewo k of it e i ting l w s n eg l tion , no le f vo ble th n th t cco e in like it tion to inve tment of it own n tion l n comp nie .

2. E ch P ty h ll cco to the e inve tment , once e t bli he , n oci te ctivitie , t e tment not le f vo ble th n th t cco e in like it tion to inve tment of it own n tion l n comp nie o to inve tment of n tion l n comp nie of ny thi co nt y, whicheve i the mo t f vo ble.

3. Inve tment of n tion l n comp nie of eithe P ty h ll t ll time be cco e f i n eq it ble t e tment n h ll enjoy f ll p otection n ec ity in the te ito y of the othe P ty, in manne con i tent with inte n tion l l w. Neithe P ty h ll in ny way imp i by bit y n i c imin to y me e the man gement, ope tion, mainten nce, e, enjoyment, cq i ition, e p n ion, o i po l of inve tment ma e by n tion l o comp nie xof the othe P ty. E ch P ty h ll ob e ve ny oblig tion it may h ve ente e into with eg to inve tment of n tion l o comp nie of the othe P ty.

4. S bject to l w s el ting to the ent y n ojo n of lien :

) N tion l of eithe P ty h ll be pe mitte to ente n to emain in the te ito y of the othe P ty fo the p po e of e t bli hing, eveloping, mini te ing o vi ing on the ope tion of n inve tment to which they, o comp ny of the fi t P ty th t employ them, h ve committe o e in the p oce of committing b t nti l mo nt of c pit l o othe e o ce .

b) Comp niex which e leg lly con tit te , o othe wi e o g nize n e the pplic ble l w s o eg l tion of one P ty, n which e inve tment of n tion l o comp nie of the othe P ty, h ll be pe mitte to eng ge, within the te ito y of the fi t P ty, top man ge i l pe onnel of thei choice, eg le of n tion lity.

5. E ch P ty h ll eek to voi impo ing, con ition of e t bli hment of n inve tment by n tion l o comp nie of the othe P ty, the oblig tion to e po t it p o ction o to p ch e p o ct loc lly, thi being x

without p u i to th g n al impo t p og ams an th national onomi poli y of th Pa ty.

6. Ea h Pa ty shall mak publi all laws an gulations that p tain to o aff t inv stments in its t ito y of nationals o ompani s of th oth Pa ty. A minist ativ p a ti s an p o u s, an a u i ato y isions of th Pa ty an b onsult by inv sto s of th oth Pa ty.

7. n o to maintain a favo abl nvi onment fo inv stments in its t ito y by nationals o ompani s of th oth Pa ty, a h Pa ty shall tak th n ssa y st ps to nfo ights with sp t to inv stment ag ments, inv stment autho izations, an p op ti s. Ea h Pa ty shall g ant to nationals o ompani s of th oth Pa ty, on t ms an on itions no l ss favo abl than thos whi h it g ants in lik situations to its own nationals o ompani s o to nationals o ompani s of any thi ount y, whi h v is th most favo abl t atment, th ight of a ss to its ou ts of usti , a minist ativ t ibunals an ag n i s, an all oth bo i s x ising a u i ato y autho ity, an th ight to us th skills of p sons of th i hoi who oth wis qualify un appli abl laws an gulations of th fo um, fo th pu pos of ass ting laims an nfo ing ights with sp t to inv stments.

ARTICLE III

1. Nationalization o xp op iation measu s, o any oth publi measu having th same ff t o natu , whi h might b tak n by ith Pa ty against inv stments of nationals o ompani s of th Pa ty, shall b n ith is iminato y no tak n fo asons oth than a publi pu pos . Any su h measu s shall only b tak n un l gal p o u s whi h affo u p o ss of law.

2. Wh n su h measu s a tak n, a h Pa ty shall pay p omptly ust an ff tiv omp nsation to th nationals o ompani s of th oth Pa ty.

3. Th omp nsation shall b quival nt to th full valu of th xp op iat inv stment on th at of th xp op iation.

4. A national o ompany of ith Pa ty that ass ts that all o pa t of its inv stment in th t ito y of th oth Pa ty has b n xp op iat shall hav a ight to p ompt vi w by th app op iat u i ial o a minist ativ autho iti s of su h oth Pa ty to t min wh th any su h xp op iation has o u an , if so, wh th su h xp op iation, an any omp nsation th fo , onfo ms to th p in ipl s s t fo th in this A ti l .

5. Nationals o ompani s of ith Pa ty, whos inv stments suff loss s in th t ito y of th oth Pa ty owing to wa o oth a me onfli t, o ivil istu ban , shall b a o t atment by su h oth Pa ty no l ss I favo abl than that a o to its own nationals o ompani s o to nationals o Compani s of any thi ount y, whi h v is th most favo abl t atment, as ga s stitution o omp nsation.

ARTICLE IV

1. Ea h Pa ty shall p mit p ompt t ansf s of th p o s of an inv stment.

2. To th xt nt that a national o ompany of ith Pa ty has not ma anoth a ang ment with th app op iat autho iti s of th oth Pa ty in whos t ito y th inv stment of su h national o ompany is situat , t ansf s ma pu suant to this A ti l shall b p mitt in a onv tibl u n y. Su h t ansf shall b ma at th p vailing at of x hang us fo omme ial pu pos s on th at of t ansf in th ount y f om whi h su h t ansf s a b ing ma .

3. Notwithstan ing th p ing pa ag aphs, ith Pa ty may maintain laws an gulations (a) qui ing po ts of u n y t ansf , (b) imposing in ome tax s by su h means as a withhol ing tax appli abl to ivi n s o oth t ansf s an ( ) p s ibing o maintaining p o u al fo maliti s gov ning t ansf s lat I to inv stments. Fu th mo , ith Pa ty may p ot t th ights of ito s, o nsu th satisfa tion of u gments in a u i ato y p o ings, th ough quitabl , non- is iminato y an goo faith appli ation of its laws.

ARTICLE V

1. At the w rtte e est of e the Pa ty, the Pa t es shall co s lt p omptly to d sc ss the te p etat o o appl cat o of the T eaty o to esolve a y d sp te co ect o w th the T eaty.

2. If o e pa ty e ests w rt g that the othe Pa ty s pply fo mat o ts possess o co ce g vestme ts ts te to y by at o als o compa es of the Pa ty ma g the e est, the the othe Pa ty shall, k co s ste t w th ts appl cable laws a d eg lat o s a d w th d e ega d fo b s ess co f de t al ty, e deavo to establ sh app op ate p oced es a d a a geme ts fo the p ov s o of a y s ch fo mat o .

ARTICLE VI

1. Fo p poses of th s A t cle, a vestme t d sp te s def ed as a d sp te volv g (a) the te p etat o o appl cat o of a vestme t ag eeme t betwee a Pa ty a d a at o al o compa y of the othe Pa ty; o (b) a compla t co ce g a alleged v olat o of a y ght co fe ed o c eated by th s T eaty w th espect to a vestme t.

2. I the eve t of a vestme t d sp te betwee a Pa ty a d a at o al o compa y of the othe Pa ty, the pa t es to the d sp te shall t ally see to esolve the d sp te by co s ltat o a d egot at o . If the d sp te ca ot be esolved th o gh these co s ltat o s a d egot at o s, the d sp te shall be s bmitted fo settleme t acco da ce w th p ev o sly ag eed, appl cable d sp te settleme t p oced es. A y d sp te settleme t p oced es ega d g exp op at o a d spec f ed the vestme t ag eeme t shall ema b d g a d shall be e fo ceable acco da ce w th the te ms of the vestme t ag eeme t, eleva t p ov s o s of domest c laws, a d appl cable te at o al ag eeme ts ega d g e fo ceme t of a b t al awa ds.

3.(a) The at o al o compa y co ce ed may choose to co se t w rt g to the s bmiss o of the d sp te to the I te at o al Ce t e fo Settleme t of I vestme t D sp tes ("Ce t e") fo settleme t by co c l at o o b d g a b t at o , at a y t me afte s x mo ths f om the date po wh ch the d sp te a ose, p ov ded:

( ) the d sp te has ot, fo a y easo , bee s bmitted by the at o al o compa y fo esol t o acco da ce w th a y appl cable d sp te settleme t p oced es p ev o sly ag eed to by the pa t es to the d sp te; a d

( ) (a) the case of a d sp te betwee the U ted States a d a at o al o compa y of Mo occo, the at o al o compa y has ot b o ght the d sp te befo e the co ts of j st ce o admi st at ve t b als o age c es of compete t j sd ct o of the U ted States; o

( ) (b) the case of a d sp te betwee the K gdom of Mo occo a d a at o al o compa y of the U ted States, the d sp te has bee b o ght befo e the co t of j st ce o admi st at ve t b al o age cy of p ma y j sd ct o de the laws of Mo occo a d (1) s ch co t, t b al o age cy has e de ed a f al j dgeme t, o (2) o e yea has elapsed s ce the date o wh ch the p oceed gs befo e s ch co t, t b al o age cy we e t ated. Upo s bmiss o of the d sp te to the Ce t e, the compla t befo e the domest c co ts of Mo occo shall be w thd aw n.

(b) Each Pa ty he eby co se ts to the s bmiss o of a vestme t d sp te to the Ce t e fo settleme t by co c l at o o b d g a b t at o .

(c) Co c l at o o b d g a b t at o of s ch d sp tes shall be do e acco da ce w th the p ov s o s of the Co ve t o o the Settleme t of I vestme t D sp tes Betwee States a d Nat o als of othe States a d the Reg lat o s a d R les of the Ce t e.

4. I a y p oceed g volv g a vestme t d sp te, a Pa ty shall ot asse t as a defe se that the at o al o compa y co ce ed has ece ved o w ll ece ve f om a othe so ce, p s a t to a s a ce o g a a tee co t act, demn f cat o o othe compe sat o fo all o pa t of ts alleged damages.

5. Fo the p poses of th s A t cle, a y compa y co st t ted de the appl cable laws a d eg lat o s of a Pa ty k that, mmed ately befo e the occ e ce of the eve t o eve ts g v g se to the d sp te, was a vestme t of at o als o compa es of the othe Pa ty, shall, acco da ce w th A t cle 25(2) (b) of the Co ve t o , be t eated as a at o al o compa y of s ch othe Pa ty.

ARTICLE VII

1. Any di b w e n h Par i conc rning h in r r a ion or a lica ion of hi Tr a y which i no r olv d hro gh con l a ion or o h r di loma ic chann l , hall b bmi d, on h r q of i h r Par y, o an arbi ral rib nal for binding d ci ion in accordanc wi h h a licabl r l of in rna ional law. Th rib nal hall i own r l of roc d r . How ev r, for robl ms no r olv d by h Trib nal or hi Tr a y, and in h ab nc of any o h r arbi ral roc d r agr d by h Par i , h Mod l l on Arbi ral Proc d r ado d by h Uni d Na ion In rna ional Law Commi ion in 1958 a r f rr d o in U.N. G en ral A mbly ol ion 1262 (XIII) will b a li d.

2. Wi hin wo mon h of r c i of a r q , ach Par y hall a oin an arbi ra or. Th wo arbi ra or hall l c a hird arbi ra or a Chairman, who i a na ional of a hird S a .

3. Unl o h rwi agr d, all bmi ion hall b mad and all h aring hall b compl d wi hin ix mon h of h da of l c ion of h hird arbi ra or, and h Trib nal hall r nd r i d ci ion wi hin wo mon h of h da of h final bmi ion or h da of h clo ing of h h aring , which v r i la r.

4. Ex n inc rr d by h Chairman, h o h r arbi ra or , and o h r co of h roc ding hall b aid for q ally by h ar i , nl h Trib nal d cid o h rwi .

ARTICLE VIII

1. Thi Tr a y hall no r d , r j dic , or o h rwi d roga from:

(a) Law s and r g la ion , admini ra iv rac ic or roc d r , or adj dica ory d ci ion of i h r Par y; R

(b) In rna ional l gal obliga ion ; or

(c) Obliga ion a med by i h r Par y, incl ding ho con ain d in an inv men agr men or inv men a horiza ion,

wh h r x an a h ime of n ry in o forc of hi Tr a y or h r af r, ha n i l inv men , or a ocia d ac ivi i , of na ional or compani of h o h r Par y o r a men mor favorabl han ha accord d by hi Tr a y in lik i a ion .

2. Thi Tr a y hall no rc d or canc l any o h r agr men b w e n h wo Par i ha i in forc on h da on which hi Tr a y n r in o forc .

ARTICLE IX

1. Thi Tr a y hall no r cl d h a lica ion by i h r Par y in i rri ory of h dome ic mea r n c ary for h main nanc of blic ord r and morali y or h ro c ion of ac and in rna ional c ri y or i own n ial c ri y in r .

2. Thi Tr a y hall no r cl d i h r Par y from r cribing cial formali i in conn c ion wi h h abli hmen of inv men in i rri ory by na ional and compani of h o h r Par y, b ch formali i hall no impair h b anc of any of h righ for h in hi Tr a y.

ARTICLE X

1.R Thi Tr a y hall b ra ifi d by ach Par y in conformi y wi h i con i ional roc d r .

2. Thi Tr a y hall n r in o forc hir y (30) day af r h da of xchang of ra ifica ion . I hall r main in forc for a riod of n (10) y ar and hall con in in forc nl rmina d in accordanc wi h Paragra h 3 of hi Ar icl .

3. Ei h r Par y may, by giving on (1) y ar' wri n no ic o h o h r Par y, rmina hi Tr a y a h nd of h ini ial n (10) y ar riod or any ime h r af r.

4. In h v n of rmina ion, hi Tr a y hall con in o a ly o inv men cov r d by hi Tr a y for a f r h r riod of n (10) y ar from ch da of rmina ion.

5. Thi Tr a y, af r a r liminary xchang of di loma ic no , may b amend d by mu al agr men . R

Such ame me ha e er i o force for he wo Par ie o he ame co i u io a co i io a hi Trea y.

PROTOCOL

1. Thi Trea y ha app y o he po i ica ub i i io of he U i e S a e .

2. (a) Wi h re pec o Ar ic e II(1) a (2), he Ki g om of Morocco re er e he righ o:

(i) ex e go er me gra , a i a ce, oa , or i ura ce excu i e y o i own a io a or compa ie wi hi he framework of a io a e e opme ac i i ie a programs; a

(ii) ex e o a io a or compa ie of a hir cou ry a a age require by ir ue of i par icipa io or a ocia io wi h a commo marke , regio a cu oms u io or free ra e a ocia io .

(b) Wi h re pec o Ar ic e II(1) a (2), he U i e S a e re er e he righ o imi he ex e o which a io a or compa ie of Morocco or heir i e me may wi hi U.S. erri ory e ab i h, acquire i vere i , or carry o i e me e gage i air ra por a io , ocea a coa a hippi g, ba ki g, i ura ce, e ergy a power pro uc io , u e of a a a ura re ource , ow ner hip of rea e a e, ra io a e e i io broa ca i g, e epho e a e egraph er ice , ubmari e cab e er ice a a e i e commu ica io . The U i e S a e a o re er e he righ o imi he ex e o which a io a or compa ie of Morocco or heir i e me may be e igib e for go er me gra , i ura ce or oa programs. O ther ha wi h re pec o he ow ner hip of rea e a e, he rea me accor e by he U i e S a e o i e vme of a io a or compa ie of Morocco ha be o e fa orab e ha ha accor e i ike i ua io o i e me of a io a or compa ie of a y hir cou ry. Righ o e gage i mi i g o he U.S. pub ic omai ha be epe e o reciproca righ bei g gra e o i e me of U.S. a io a or compa ie wi hi he erri ory of Morocco.

(c) Each Par y agree o o ify he o her Par y before or o he a e of e ry i o force of hi Trea y of a y aw s, regu a io a po icie imi i g he ex e o which i e me of a io a or compa ie of he o her Par y may wi hi i erri ory e ab i h, acquire i ere i or carry o i e me .

3. The rea me accor e by he U i e S a e o a io a or compa ie of he Ki g om of Morocco u er he pro i io of Paragraph 1 a 2 of Ar ic e II ha i a y a e, erri ory, po e io , or po i ica or a mi i ra i e ub i i io of he U i e S a e be he rea me accor e herei o compa ie i corpora e , co i u e o compa ie i corpora e , co i u e or o herwi e u y orga ize i o her a e , erri orie , po e io , or po i ica or a mi i ra i e ub i i io of he U i e S a e .

4. For purpo e of Ar ic e III(3), he fu a ue ha o be affec e by prior o ice or pub ic a ou ceme by he go er me of he expropria ory ac io . The compe a io ha i c u e, a appropria e, a amou o compe a e for a y e ay i payme ha may occur from he a e of expropria io . Promp ra fer of he compe a io a he ra e of excha ge u e for commercia purpo e ha be guara ee i or er o mai ai he a ue of he compe a io .

5. Wi h regar o Ar ic e IV, i e me i Morocco of he ype e cribe i Ar ic e I(4) (a) of he Trea y, which are fi a ce by co ribu io i he form of foreig excha ge or rei e e profi , may be ma e free y. Howe er, a repor of he e i e me hou be e promp y o he Morocca au hori y i charge of excha ge co ro . If he rei e e profi are ur e o er o a U.S. a io a re i i g i Morocco, he i e or mu ob ai he appro a pecifie be ow.

For i e me e cribe i Ar ic e I(4) (b), fi a ce by a y o her co ribu io , fi a cia or i ki ; re eri g of er ice a ech ica a i a ce i ge era , a e cribe i Ar ic e I(4) (c) a ( ); a he ra ac io e cribe i Ar ic e I(4) (e), he i e or mu ob ai appro a from he Morocca au hori y i charge of excha ge co ro .

The ra fer re a e o he abo e me io e ype of i e me ha be permi e if he proce ure require by he Morocca au hori y i charge of excha ge co ro ha e bee fu fi e .

Tra fer re a i g o a i e me of a io a of he U i e S a e re i e i Morocco ha be carrie ou i accor a ce wi h exi i g Morocca aw s a regu a io . v

6. The pr - f Art cle VI a d VII hall t apply t a d pute ar g (a)-u der the exp rt cred t, guara tee r ura ce pr grams f the Exp rt Imp rt Ba k f the U ted State r (b) u der ther ff c al cred t, guara tee r ura ce arra geme t puru a t t wh ch the Part e ha e agreed t ther mea .

7. O n ue f taxat ar g u der Art cle II r l g the pr f tax f rmat u der Art cle V, the pr - f the C e t betwee the G o er me t f the U ted State f Amer ca a d the K gd m f M or cc f r the A da ce f D ouble Taxat a d the Pre e t f F cal E a w ith Re pect t Taxe I c me, g ed Augu t 1, 1977, hall pre a l.

8. C te t w ith the pr- f Art cle II(3), th treaty hall apply t e tme t ex t g at the t me f e try t f rce f the Treaty pr ded uch appl cat c f rms w ith the pec f c pr - f agreeme t r c tract appr ed at the t me the e tme t wa made.

IN WITNESS WHEREEOF, the re pect e ple p te t ar e ha e g th Treaty.

DONE dupl cate at Wa h gt the twe ty ec d day f July, 1985, the E gl h, Arab c a d Fre ch la guage , the three text be g equally authe t c.

FOR THE GOVERNMENT OF FOR THE GOVERNMENT OF THE

UNITED STATES OF AMERICA: THE KINGDOM OF MOROCCO:

CLAYTON YEUTTER MOULAY ZINE ZAHIDI -

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