

No. 29875

**AUSTRIA
and
CAPE VERDE**

Agreement on the encouragement and protection of investments. Signed at Vienna on 3 September 1991

Authentic texts: German and Portuguese.

Registered by Austria on 1 April 1993.

**AUTRICHE
et
CAP-VERT**

Accord relatif à la promotion et à la protection des investissements. Signé à Vienne le 3 septembre 1991

Textes authentiques : allemand et portugais.

Enregistré par l'Autriche le 1^{er} avril 1993.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE REPUBLIC OF AUSTRIA AND THE
REPUBLIC OF CAPE VERDE ON THE ENCOURAGEMENT
AND PROTECTION OF INVESTMENTS

The Republic of Austria and the Republic of Cape Verde, hereinafter referred to as “Contracting Parties”,

Desiring to create favourable conditions for intensified economic cooperation between the Contracting Parties,

Recognizing that the encouragement and protection of investments can increase the readiness to make such investments and thereby make an important contribution to the development of economic relations,

Have agreed as follows:

Article 1

DEFINITIONS

For the purposes of this Agreement:

1. The term “investments” covers all assets and, in particular, although not exclusively:

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

(b) Shares and other types of participation in companies;

(c) Claims to money that has been given to create an economic value or claims to any performance having an economic value;

(d) Copyrights, industrial property rights, such as patents for inventions, trademarks, industrial designs and models as well as utility models, technical processes, know-how, trade names and goodwill;

(e) Business concessions under public law to prospect for, extract or exploit natural resources.

2. The term “investor” means:

(a) Any individual who is a national of either Contracting Party and makes an investment in the territory of the other Contracting Party;

(b) Any legal entity or company under commercial law constituted in accordance with the legislation of a Contracting Party and having its headquarters in the territory of that Contracting Party, which makes an investment in the territory of the other Contracting Party.

¹ Came into force on 1 April 1993, i.e., the first day of the third month following the month of the exchange of the instruments of ratification, which took place at Vienna on 15 January 1993, in accordance with article 11 (1).

3. The term “returns” means the amounts yielded by an investment, and in particular, although not exclusively, profits, interest, capital gains, dividends, royalties, licence fees and other remuneration.

4. The term “expropriation” also covers nationalization or any other measure having equivalent effect.

Article 2

ENCOURAGEMENT AND PROTECTION OF INVESTMENTS

1. Each Contracting Party shall promote in its territory, to the extent possible, investments by investors of the other Contracting Party, permitting such investments in accordance with its own legislation and in any case according them fair and equitable treatment.

2. Investments made in accordance with paragraph 1 and their returns shall enjoy the full protection of this Agreement. The same treatment shall apply, without prejudice to the provisions of paragraph 1, to their returns in the case of reinvestment of such returns. The legal extension, alteration or conversion of an investment shall be considered a new investment.

Article 3

TREATMENT OF INVESTMENTS

1. Each Contracting Party shall accord to investors of the other Contracting Party and their investments treatment no less favourable than that accorded to its own investors and their investments, or that accorded to investors of third States and their investments.

2. The provisions of paragraph 1 may not be construed as obliging one Contracting Party to extend to investors of the other Contracting Party the present or future benefit of any treatment, preference or privilege resulting from:

(a) A customs union, common market, free trade area or membership in an economic community;

(b) An international agreement, an intergovernmental arrangement or domestic tax legislation;

(c) Regulations designed to facilitate border traffic.

Article 4

COMPENSATION

1. The investments of investors of one Contracting Party may be expropriated in the territory of the other Contracting Party only in the public interest, on the basis of a legal procedure and against compensation. Such compensation shall amount to the value of the investment immediately before the date on which the actual or imminent expropriation becomes public knowledge. The compensation shall be paid without undue delay and shall bear interest until the time of payment at the usual bank rate of the State in which the investment was made; it shall be effectively realizable and freely transferable. Provision for the determination and payment of