

No. 47023

**Switzerland
and
Kenya**

Agreement between the Swiss Confederation and the Republic of Kenya on the promotion and reciprocal protection of investments. Nairobi, 14 November 2006

Entry into force: *10 July 2009 by notification, in accordance with article 12*

Authentic texts: *English and French*

Registration with the Secretariat of the United Nations: *Switzerland, 13 January 2010*

**Suisse
et
Kenya**

Accord entre la Confédération suisse et la République du Kenya concernant la promotion et la protection réciproque des investissements. Nairobi, 14 novembre 2006

Entrée en vigueur : *10 juillet 2009 par notification, conformément à l'article 12*

Textes authentiques : *anglais et français*

Enregistrement auprès du Secrétariat des Nations Unies : *Suisse, 13 janvier 2010*

A g r e e m e n t

between

the Swiss Confederation

and

the Republic of Kenya

on the Promotion and Reciprocal Protection

of Investments

Preamble

The Swiss Federal Council and the Government of the Republic of Kenya,
on behalf of the Swiss Confederation and of the Republic of Kenya respectively (hereinafter
referred to as the “Contracting Parties”),

Desiring to strengthen the economic cooperation for the mutual benefit of both States,

Intending to create and maintain favourable conditions for investments by investors of one
Contracting Party in the territory of the other Contracting Party,

Recognizing the need to promote and protect foreign investments with the aim to foster the
economic prosperity of both States,

Have agreed as follows:

Article 1

Definitions

the purposes of this Agreement:

The term “investor” means with respect to either Contracting Party:

- (a) natural persons who, according to the law of that Contracting Party, are considered to be its nationals;
- (b) legal entities, including companies, corporations, business associations and other organisations, which are constituted or otherwise duly organised under the law of that Contracting Party and have their seat, together with real economic activities, in the territory of the same Contracting Party;
- (c) legal entities not established under the law of that Contracting Party but effectively controlled by natural persons as defined in (a) above or by legal entities as defined in (b) above.

The term “investment” includes every kind of asset and in particular:

- (a) movable and immovable property as well as any other rights *in rem*, such as mortgages, liens and pledges;
- (b) shares, stocks, parts or any other kind of participation in companies;
- (c) bonds, debentures, other debt instruments, and loans;
- (d) claims to money or to any performance having an economic value;
- (e) copyrights, industrial property rights (such as patents, utility models, industrial designs or models, trade or service marks, trade names, indications of origin), know-how and goodwill;
- (f) concessions under public law, including concessions to search for, extract or exploit natural resources as well as all other rights given by law, by contract or by decision of the authority in accordance with the law.

Any change in the form in which assets are invested shall not affect their character as investments.

- (3) The term “returns” means the amounts yielded by an investment, in particular, though not exclusively, profits, interest, capital gains, dividends, royalties, fees and payments in kind.
- (4) The term “territory” means, with respect to each Contracting Party, the land territory, the internal waters, the air space and, where applicable, the territorial sea and the maritime zones beyond the territorial sea, including the seabed and the subsoil and their natural resources, over which the Contracting Party concerned exercises sovereign rights or jurisdiction in accordance with national and international law.

Article 2

Scope of Application

The present Agreement shall apply to investments in the territory of one Contracting Party made in accordance with its laws and regulations by investors of the other Contracting Party, whether prior to or after the entry into force of the Agreement. It shall however not apply to claims or disputes arising out of events which occurred prior to its entry into force.

Article 3

Promotion and Admission

- (1) Each Contracting Party shall in its territory promote as far as possible investments by investors of the other Contracting Party and admit such investments in accordance with its laws and regulations.
- (2) When a Contracting Party shall have admitted an investment in its territory, it shall grant, in accordance with its laws and regulations, the necessary permits in connection with such an investment including permits for the carrying out of licensing agreements and contracts for technical, commercial or administrative assistance.
- (3) Each Contracting Party shall, subject to its laws and regulations relating to the entry, stay and work of natural persons, examine and give due consideration to requests of key