

**No. 47711**

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**South Africa  
and  
Mauritius**

**Agreement between the Government of the Republic of South Africa and the Government of the Republic of Mauritius for the promotion and reciprocal protection of investments (with protocol). Cape Town, 17 February 1998**

**Entry into force:** *23 October 1998 by notification, in accordance with article 12*

**Authentic text:** *English*

**Registration with the Secretariat of the United Nations:** *South Africa, 30 August 2010*

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**Afrique du Sud  
et  
Maurice**

**Accord entre le Gouvernement de la République sud-africaine et le Gouvernement de la République de Maurice relatif à la promotion et à la protection réciproque des investissements (avec protocole). Le Cap, 17 février 1998**

**Entrée en vigueur :** *23 octobre 1998 par notification, conformément à l'article 12*

**Texte authentique :** *anglais*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Afrique du Sud, 30 août 2010*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

**AGREEMENT**  
**BETWEEN**  
**THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA**  
**AND**  
**THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS**  
**FOR THE PROMOTION AND RECIPROCAL PROTECTION OF**  
**INVESTMENTS**

The Government of the Republic of South Africa and the Government of the Republic of Mauritius (hereinafter referred to as the “Contracting Parties”);

DESIRING to create favourable conditions for greater investment by investors of one Contracting Party in the territory of the other Contracting Party; and

RECOGNISING that the encouragement and reciprocal protection under international agreement of such investments will be conducive to the stimulation of individual business initiative and will increase prosperity in the territories of both Contracting Parties;

HAVE agreed as follows:

## ARTICLE 1

### Definitions

1. In this Agreement, unless the context otherwise indicates -
  - (a) "investment" means every kind of asset (permitted by each Contracting Party in accordance with its laws) and in particular, though not exclusively, includes:
    - (i) movable and immovable property as well as other rights in rem such as mortgages, liens or pledges;
    - (ii) shares in and stock and debentures of a company and any other form of (proprietary) interest in a company;
    - (iii) claims to money, or to any contractual right having an economic value;
    - (iv) intellectual property rights, including, inter alia, copyrights, patents, utility-model patents, registered designs, trade-marks, trade-names, trade and business secrets, technical processes, know-how, and goodwill;
    - (v) rights or permits conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources;
  - (b) "returns" means the amounts yielded by an investment and in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and fees;
  - (c) "investor" means in respect to either Contracting Party:
    - (i) the "nationals", i.e. natural persons deriving their status as nationals of a contracting Party from the laws of that Contracting Party; and
    - (ii) the "companies", i.e. any legal or juridical person, corporation, firm or association, incorporated or constituted in accordance with the law of that Contracting Party;
  - (d) "territory" means -
    - (i) in the case of the Republic of Mauritius -
      - (A) all the territories and islands which, in accordance with the laws of Mauritius, constitute the State of Mauritius;
      - (B) the territorial sea of Mauritius; and
      - (C) any area outside the territorial sea of Mauritius which in accordance with international law has been or may hereafter be designated, under the laws of Mauritius, as an area, including the Continental Shelf, within which the rights of Mauritius with respect to the sea, the

sea-bed and sub-soil and their natural resources may be exercised;

- (ii) in the case of the Republic of South Africa, the territory of the Republic of South Africa, including the territorial sea and any maritime area situated beyond the territorial sea of South Africa, which has been or might in the future be designated under its domestic law, in accordance with international law, as an area within which the Republic of South Africa may exercise sovereign rights and jurisdiction.
2. Any change in the form in which assets are invested does not affect their character as investments.

## **ARTICLE 2**

### **Promotion of Investments**

1. Each Contracting Party shall, as far as possible, encourage investments in its territory by investors of the other Contracting Party, and shall, subject to its laws, admit such investments.
2. Each Contracting Party shall grant, in accordance with its laws, the necessary permits in connection with such investments and with the carrying out of licensing agreements and contracts for technical, commercial or administrative assistance.
3. In order to create favourable conditions for assessing the financial position and results of activities related to investments in the territory of a Contracting Party, that Contracting Party shall - notwithstanding its own requirements for bookkeeping and auditing - permit the investor to apply, regarding his or its investment, the bookkeeping and auditing standards which the investor is subjected to by his or its national requirements or internationally accepted standards (such as International Accountancy Standards (IAS) drawn up by the International Accountancy Standards Committee (IASC)). The results of such accountancy and audit shall be fully available for use by the investor.

## **ARTICLE 3**

### **Treatment of Investments**

1. Investments and returns of investors of either Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection in the territory of the other Contracting Party. Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment or disposal of investments in its territory of investors of the other Contracting Party.
2. Each Contracting Party shall in its territory accord to investments and returns of investors of the other Contracting Party treatment not less favourable than that which it accords to investments and returns of its own investors or to investments and returns of investors of any third State.

3. Each Contracting Party shall in its territory accord to investors of the other Contracting Party treatment not less favourable than that which it accords to its own investors or to investors of any third State.
4. The provisions of paragraphs (2) and (3) shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from:
  - (a) any existing or future customs union, free trade area, common market, any similar international agreement or any interim arrangement leading up to such customs union, free trade area, or common market to which either of the Contracting Parties is or may become a party, or
  - (b) any arrangement with a third State or States in the same geographical region designed to promote regional cooperation in the economical, social, labour, industrial or monetary fields within the framework of specific projects.
  - (c) Any law or measure in pursuance of any law the purpose of which is to promote the achievement of equality in its territory, or designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination in its territory.
5. If a Contracting Party accords special advantages to development finance institutions with foreign participation and established for the exclusive purpose of development assistance through mainly nonprofit activities, that Contracting Party shall not be obliged to accord such advantages to development finance institutions or other investors of the other Contracting Party.
6. The provisions of this Agreement shall not be construed so as to oblige one Party to extend to the investors of the other Party the benefit of any treatment, preference or privilege resulting from any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation.

#### **ARTICLE 4**

##### **Compensation of Losses**

1. Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot in the territory of the latter Contracting Party shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, not less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State.
2. Without derogating from the provisions of paragraph (1) of this Article, investors of one Contracting Party who, in any of the situations referred to