

NIGERIA, FEDERAL REPUBLIC OF\*  
 AGREEMENT BETWEEN THE  
 GOVERNMENT OF THE REPUBLIC OF  
 CHINA AND THE GOVERNMENT OF THE  
 FEDERAL REPUBLIC OF NIGERIA FOR  
 PROMOTION AND PROTECTION OF  
 INVESTMENTS

Signed on April 7, 1994  
 Entered into force on April 7, 1994

The Government of the Republic of China and the Government of the Federal Republic of Nigeria (hereinafter referred to as "The Contracting Parties"),

Desiring to create favorable conditions for greater investment by nationals and companies of one Contracting Party in the territory of the other Contracting Party;

Recognizing that the encouragement and reciprocal protection under international agreement of such investments will be conducive to the stimulation of individuals business initiative, will contribute to development and will increase prosperity in both Contracting Parties;

Recognizing that each Contracting Party has the right to define the conditions of foreign investment received, the investor should respect the host country's sovereignty and laws;

Have agreed as follows:

ARTICLE 1  
 Definitions

For the purposes of this Agreement;

- (1) "Investment" means every kind of asset and in particular, though not exclusively, includes:
- (a) movable and immovable property and any other property rights such as mortgages, liens or pledges;

奈及利亞聯邦共和國\*

中華民國政府與奈及利亞  
 聯邦共和國政府間投資促  
 進暨保護協定

八十三年四月七日簽訂  
 八十年四月七日生效

中華民國政府與奈及利亞聯邦共和國政府（以下簡稱為「締約雙方」），為創造有利條件，俾締約一方之國民及公司在締約他方之領域內增加投資；

咸認以國際協定提供此種投資鼓勵及相互保護，將可在締約雙方誘導激勵各個營業之創立、助長發展及增進繁榮；

咸認締約各方有權界定外來投資條件，投資者應尊重地主國之主權與法律；

爰經協議如下：

第一條  
 定義

就適用本協定而言：

- (1) 「投資」一詞，係指各種類之資產，尤其包括，但不限於：
- (a) 動產、不動產以及諸如抵押權、留置權、質權

- (b) shares, stock and debentures of a company or interests in the property of company;
- (c) claims to money or to any performance under contract having a financial value;
- (d) intellectual property rights, technical processes, know-how and goodwill;
- (e) business concessions conferred by law or under contract including concessions to search for, cultivate, extract or exploit natural resources.

A change in the form in which assets are invested does not affect their character as investments and the term "investment" includes all investments, whether made before or after the date of entry into force of this Agreement; the alteration of the asset shall not be contrary to the initial approval granted to the investment by the Contracting Party in whose territory the investment is made;

- (2) "Returns" means the amount yielded by an investment and in particular, though not exclusively, includes profit, interests, capital gains, dividends, royalties and fees;
- (3) "Nationals" means, with regard to either Contracting Party, natural persons having the nationality of that Contracting Party;
- (4) "companies" means, with regard to either Contracting Party, corporations, firms associations and other legal persons incorporated or constituted under the law in force in any part of each Contracting Party;
- (5) "Territory" includes all areas (i) in respect of the Federal Republic of Nigeria, as defined by the

等任何其他財產權；

- (b) 公司之股份、股票及債券，或公司財產之利益；
- (c) 對於金錢或契約上具有財務價值之作爲之請求權；
- (d) 智慧財產權、專門技術、技術情報及商譽；
- (e) 法律授予或根據契約之營業特許權，包括探勘、培植、提煉或開發天然資源之特許權。

無論投資係在本協定生效日期前或後所作成，「投資」一詞包含所有投資，而且投資之財產形態有所改變時，不影響其投資之特性；

在締約一方領域內所作之投資，其資金之變更應不違反該締約一方最初核准投資之目的。

- (2) 「收益」一詞，係指由投資所產生收益之金額，尤其包括利潤、利息、資本收益、股息、紅利、權利金或其他收費；
- (3) 「國民」一詞係指締約任何一方之自然人具有該締約一方國籍者；
- (4) 「公司」一詞係指在締約任何一方，根據締約一方現行法律所組織或設立之公司、商號、社團或其他法人；
- (5) 「領域」一詞係指包括所有地區<sup>1</sup>。就奈及利亞聯邦共和國

constitution of the Federal Republic of Nigeria;  
(ii) in respect of the Republic of China, over which the Republic of China has exercised its sovereignty or jurisdiction.

## ARTICLE 2

### Promotion and Protection of Investments

- (1) Each Contracting Party shall grant all possible facilities available to encourage and create favorable conditions for nationals or companies of the other Contracting Party to invest capital in its territory, and subject to its right to exercise powers conferred by its laws, shall admit such capital. This Agreement shall, to the extent that a written approval is required for an investment, only extend to investments, whether made before or after the coming into force of this Agreement, which is specifically approved in writing by the Contracting Party in whose territory the investment has been made or is subject to the laws in force in the territory of the Contracting Party concerned and to the conditions, if any, upon which such approval shall have been granted.
- (2) Investments of nationals or companies of each Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security 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 investment in its territory of nationals, or companies of the other Contracting Party. Each Contracting Party shall observe any obligation it may have entered into with regard to investment of nationals or companies of the other Contracting Party.

## ARTICLE 3

### National Treatment and Most-Favored-Nation Provisions

- (1) Neither Contracting Party shall in its territory subject investment or returns of nationals or

而言，依奈及利亞聯邦共和國憲法所界定者；2.就中華民國而言乃中華民國行使主權或管轄權所及之地區者。

## 第二條

### 投資之促進與保護

- (1) 締約雙方應提供所有可能之便利，以鼓勵並創設有利條件，促使締約他方國民或公司在其領域內投資，且在法律所授予執行權力之限度內，應接納此種資金。無論投資係在本協定發生效力前或後作成，均適用本協定，且每一筆投資必須取得締約一方書面同意，即在締約一方領域內所作之投資必須由該締約一方明確地以書面同意，或不違反該締約一方領域內之現行法律或該締約一方核准同意所依據之條件。
- (2) 締約任何一方之國民或公司之投資應始終受到公平與公正之待遇，且在締約他方之領域內應享有完全之保護與安全。締約任何一方不得以不合理或差別待遇之措施，對於締約他方國民或公司在其領域內投資之經營、維持、使用、享有或管理加以任何損害。締約雙方對締約他方國民或公司之投資應負其應有之責任。

## 第三條

### 國民待遇與最惠國條款

- (1) 締約任何一方在其領域內給予締約他方國民或公司之投

companies of the other Contracting Party to treatment less favorable than that which it accords to investments or returns of its own nationals or companies or to investments or returns of nationals or companies of any third State.

- (2) Neither Contracting Party shall in its territory subject nationals or companies of the other Contracting Party, as regards their management, maintenance use, enjoyment or disposal of their investment, to treatment less favorable than that which it accords to its own nationals or companies or to nationals or companies of any third State.

#### ARTICLE 4 Compensation for Losses

- (1) Nationals or companies of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or to other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot in the territory of the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, no less favorable than that which the latter Contracting Party accords to its own nationals or companies or to nationals or companies of any third state.
- (2) Without prejudice to paragraph (1) or this Article, nationals and companies of one Contracting Party who in any of the situations referred to in that paragraph suffer losses in the territory of the other Contracting Party resulting from: (i) requisitioning of their property by its forces or authorities, or (ii) destruction of their property by its forces or authorities, which was not caused in combat action or was not required by the necessity of the situation, shall be accorded restitution or adequate compensation. Resulting payments shall be freely transferable.

資或收益之待遇，不得低於其給予本國或任何第三國國民或公司之投資或收益之待遇。

- (2) 締約任何一方在其領域內給予締約他方國民或公司有關投資之經營、維持、使用、享有或管理之待遇，不得低於其給予本國或任何第三國國民或公司之待遇。

#### 第四條 損害賠償

- (1) 締約一方之國民或公司，其在締約他方領域內之投資，因締約他方領域內之戰爭或其他武力衝突、革命、國家緊急狀態、叛變、叛亂或暴動致受損害者，關於回復原狀、賠償、補償或其他清償事宜所享有之待遇，不得較締約他方給予其本國或任何第三國國民或公司之待遇為低。
- (2) 在不違反本條第一項之情況下，締約一方之國民與公司，在締約他方領域內遇有前項由於：
- (a) 軍隊或當局徵用其財產，或
- (b) 非因戰鬥行為或非情勢所需，致其財產為軍隊或當局所破壞，而遭受損害者，應享有回復原狀或充分賠償之權。賠償款得自由轉讓。

ARTICLE 5  
Expropriation

- (1) Investment of nationals or companies of either Contracting Party shall not be nationalized, expropriated or subjected to measures having effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for a public purpose related to the internal policies of the party on a non-discriminatory bases and against prompt, adequate and effective compensation. Such compensation shall amount to the market value of the investments expropriated immediately before the expropriation or before the impending expropriation became public knowledge, whichever is the earlier, shall include interest at the prevalent commercial rate until the date of payment, shall be made without delay, and shall be effectively realizable and be freely transferable. The national or company affected shall have a right, under the law of the Contracting Party making the expropriation to prompt review, by a judicial or other independent authority of the Contracting Party making the expropriation, of his or its case and of the valuation of his or its investment in accordance with principles set out in this paragraph.
- (2) Where a Contracting Party expropriates the assets of a company which is incorporated or constituted under the law in force in any part of its own territory, and in which nationals or companies of the other Contracting Party own shares, it shall ensure that the provisions of paragraph (1) or this Article are applied to the extent necessary to guarantee prompt, adequate and effective compensation in respect of their investments to such nationals or companies of the other Contracting Party who are owner of those shares.

第五條  
徵收

- (1) 締約任何一方之國民或公司之投資，在締約他方之領域內，除在一非差別待遇基礎上，因有關該國內部政策之公共目的，並在迅速、充分及有效補償之條件下，不得予以收歸國有、徵用或遭受與收歸國有或徵用（以下稱為「徵用」）相同效果之處置。該項補償應相當於被徵用之投資於徵用前或徵用公告前之市場價值，且應包括迄至清償日依一般商業利率計算之利息，並且不得遲延支付，及可有效兌現與自由轉讓。該受影響之國民或公司根據執行徵收之締約一方之法律，應有權請求締約一方司法或其他獨立當局，就該案件及其投資之估價，依照本項所訂之原則迅予覆核。
- (2) 當締約一方徵用根據其領域內有效法律所組成或設立之公司資產，而締約他方之國民或公司擁有股份時，應保證關於擁有股份之締約他方國民或公司之投資，於確保迅速、充分及有效補償之必要限度內，適用本條第一項之規定。

**ARTICLE 6**  
Repatriation of Investments and Returns

- (1) Both Contracting Parties shall seek and obtain, in accordance with their respective laws and regulations, the approval of their respective authorities to the effect that investors of either Contracting Party shall have the right of free transfer of their capital and returns.
- (2) Transfers of currency shall be effected without delay in the convertible currency agreed by the national or company making the investment. Transfers shall be made at the rate of exchange applicable on the date of transfer pursuant to the exchange regulations in force.

**ARTICLE 7**  
Settlement of Investment Disputes

Each Contracting Party hereby consents to submit any dispute or difference that may arise out of or in relation to investments made in its territory by a national or company of the other Contracting Party for settlement through arbitration in the International Chamber of Commerce. For the arbitration procedure, the rules of arbitration 1988 of the International Chamber of Commerce shall be applied.

**ARTICLE 8**  
Disputes Between the Contracting Parties

- (1) Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should, if possible, be settled amicably.
- (2) If a dispute between the Contracting Parties cannot be settled, it shall upon the request of either Contracting Party be submitted to an arbitral tribunal.
- (3) Such an arbitral tribunal shall be constituted for each individual case in the following way. Within two months of the receipt of the request for arbitration, each Contracting Party shall

**第六條**  
投資及收益之匯出

- (1) 締約雙方應依其相關法令尋求並獲得其主管機關同意，俾使締約任何一方之投資者有權自由轉移其資金與收益。
- (2) 貨幣之移轉匯出應以投資之個人或公司同意兌換之貨幣為之，其移轉應立即生效，並依照現行外匯規定及兌換當日之匯率辦理。

**第七條**  
投資爭端之解決

締約一方同意將締約他方之國民或公司在其領域內投資所衍生之任何爭端或歧見交由國際商會仲裁解決，至於仲裁之程序，則應適用一九八八年國際商會之仲裁規則。

**第八條**  
締約國間之爭端

- (1) 締約國雙方間關於本協定之解釋或適用之爭端應儘可能經由和解解決。
- (2) 倘締約國雙方間之爭端未能獲得解決，遇有締約任何一方請求時，應將其提交仲裁法庭。
- (3) 該仲裁法庭就每一個別案件依照下列方式設立之。於接獲仲裁請求兩個月內，締約雙方應各任命一名仲裁員，

appoint one member of the tribunal. Those two members shall then select a national of a third State who upon approval by the two Contracting Parties shall be appointed chairman of the tribunal. The chairman shall be appointed within two months from the date of appointment of the other two members.

(4) The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be binding on both Contracting Parties. Each Contracting Party shall bear the cost of its own member of the tribunal and of its representation in the arbitral proceedings; the cost of the chairman and the remaining costs shall be borne in equal parts by the Contracting Parties. The tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by the Contracting Parties, and this award shall be binding on both Contracting Parties. The tribunal shall determine its own procedure.

(5) The arbitral tribunal shall render its award by a majority of votes. Such award shall be binding on both Contracting Parties.

#### ARTICLE 9 Subrogation

(1) If one Contracting Party or its designated agency makes a payment under an indemnity given in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognize the assignment to the former Contracting Party or its designated agency by law or by legal transaction of all the rights and claims of the party indemnified and that the former Contracting Party or its designated agency is entitled to exercise such rights and enforce such claims by virtue of subrogation to the same extent as the party indemnified.

(2) The former Contracting Party or its designated agency shall be entitled in all circumstances to the same treatment in respect of the rights and claims acquired by it by virtue of the assignment

嗣由該二名仲裁員遴選一名第三國國民，並經締約雙方同意任命其為仲裁法庭庭長，庭長之選任應於該二名仲裁員任命後兩個月內為之。

(4) 仲裁法庭之裁決以多數票達成之，該項裁決對於締約雙方均有拘束力。締約雙方應各自負擔已方仲裁員及參加仲裁程序之費用，庭長及其他之費用應由締約雙方平均分擔。但法庭得於其裁決內命令締約一方負擔較高比例之費用，且該項裁定對締約雙方均有拘束力。法庭應自行決定其程序。

(5) 仲裁法庭應經由多數票決提出該項裁定，此一裁定對締約雙方均有拘束力。

#### 第九條 代位

(1) 倘締約一方或其委任代理者對在締約他方領域內之投資為賠償之給付，締約他方應承認按照法律或合法交易下受賠償者之所有任何權利及請求權，已讓與締約一方或其委任代理者，而締約一方或其委任代理者有權以代位方式行使受償者之權利及請求權。

(2) 締約一方或其委任代理者在任何情況下有權就關於其經由讓與所獲得之權利和請求權得到相同之待遇，並且依

and any payments received in pursuance of those rights and claims as the party indemnified was entitled to receive by virtue of this Agreement in respect of the investments concerned and their related returns.

- (3) Any payments received by the former Contracting Party or its designated agency in pursuance of the rights and claims acquired shall be freely available to the former Contracting Party for the purpose of meeting any expenditure incurred in the territory of the latter Contracting Party.

**ARTICLE 10**  
Amendment or Revision

Any amendment to or revision of this Agreement shall be in writing and shall come into effect when it is confirmed by both Contracting Parties in writing.

**ARTICLE 11**  
Entry into Force

This Agreement shall enter into force on signature.

**ARTICLE 12**  
Duration and Termination

This Agreement shall remain in force for an initial period of ten years. Thereafter it shall continue in force until the expiration of twelve months from the date on which either Contracting Party shall have given written notice of termination to the other. Provided that in respect of investments made at any time before the termination of the Agreement, its provisions shall continue, in effect with respect to such investments for a period of fifteen years from the date of termination and without prejudice to the application thereafter of the rules of general international law.

In witness whereof the undersigned, duly authorized thereto by their respective Government, have signed this Agreement.

據上述權利及請求權，有權依據本協定就關於投資及其他相關收益獲得賠償給付。

- (3) 締約一方或其委任代理者依據所獲得之權利與請求權而取得之賠償給付，締約一方為支付其在締約他方領域內之費用，得自由使用此等款項。

第十條  
修訂

本協定之任何修訂應以書面為之，並經締約雙方以書面確認後生效。

第十一條  
生效

本協定自簽字之日起生效。

第十二條  
效期及終止

本協定之有效期間為十年，嗣後本協定應繼續有效至締約任何一方以書面通知他方終止之日起算滿十二個月後為止。關於本協定有效期間內所作之投資，本協定各條款於終止之日起十五年內對該項投資繼續有效，且嗣後並不妨礙一般國際法規則之適用。為此，雙方各經其政府合法授權代表，爰於本協定簽字，以昭信守。



