

Zimbabwe, SA sign treaty to protect new investors

A TREATY between South Africa and Zimbabwe signed recently will protect future investors in respect of expropriation and compensation, a law firm said on Wednesday.

"The treaty offers South Africans with investments in Zimbabwe the best protection yet," Werksmans Attorneys director Roger Wakefield said.

"There is no doubt that this provision gives the South African investor much more clout to protect assets in Zimbabwe."

The treaty protects investors

affected by expropriation after November 27 2009, the date on which the agreement was signed.

"Though it does not assist South Africans who have already lost investments in Zimbabwe, this bilateral investment promotion and protection agreement does at least provide protection [in future]."

According to the treaty, investments may not be nationalised or expropriated, except for public purposes, under due process of the law, on a non-discriminatory basis and for effective compensation.

Secondly, any investor affected by expropriation will have the right to state his case in a court or other independent forum.

It also gives investors the right to settle disputes with the government of the host country by turning to the Washington-based International Centre for the Settlement of Investment Disputes.

On Friday, the Johannesburg High Court ordered the South African government to compensate Free State farmer Crawford von Abo for property seized from him in

Zimbabwe.

South Africa failed to provide diplomatic protection when Mugabe's government seized 11 of Von Abo's farms in Zimbabwe.

Though damages had yet to be calculated, they could amount to R500-million.

Wakefield said the treaty carried more weight than other mechanisms, such as the tribunal of the Southern Africa Development Community, "which has to date proved toothless in enforcing compensation orders". — Sapa