

# **Agreement Between the Government of the Republic of Tunisia and the Government of the Syrian Arab Republic to encourage and protect investments**

The Government of the Republic of Tunisia and the Government of the Syrian Arab Republic, hereinafter referred to as the Contracting Parties,

Based on the national and fraternal ties that bind the two Contracting Parties and their desire to cooperate on the basis of common interest,

Believing in the necessity of creating a suitable investment climate in their countries based on providing confidence and reassurance to investors and providing them with advantageous investment opportunities,

Have agreed as follows:

## **Chapter 1. Definitions**

For the purposes of this agreement:

1. The term "investments" means all types of assets and gains made or invested by investors of either Contracting Party in the territory of the other Contracting Party in accordance with its laws and regulations.
2. The term "investment" includes in particular, and is not limited to:
  - a. Movable and immovable funds of investment projects as well as related guarantees such as property mortgages, concessions and other mortgages.
  - b. Company shares and bonds, securities and participation in companies.
  - c. Industrial and intellectual property rights, including rights related to publication, patents, trademarks, trade names, industrial designs, trade secrets, technical manufacturing processes, craft knowledge and commercial reputation used in an investment project made in accordance with the laws and regulations of the host Contracting Party.
3. The term "investor" means:
  - a. Natural persons holding the nationality of one of the Contracting Parties in accordance with its laws, who engage in investment activities in the territory of the other Contracting Party, in accordance with its applicable laws and regulations.
  - b. Legal persons (entities and units) recognized as such personalities in accordance with the laws of the Contracting Party including public, private and joint companies and institutions that engage in investment activities in the territory of the other Contracting Party.
4. The term "returns" means net amounts yielded by an investment made in accordance with the applicable laws in the host country, including in particular but not limited to profits and share profits.
5. The term "territory" means:
  - a. For the Syrian Arab Republic:

The territory of the Syrian Arab Republic, including the territorial sea, the continental land, the deep seabed, the airspace above it and all other areas outside of Syrian territorial waters, over which Syria exercises its sovereignty in accordance with International Law, for the purposes of extracting and investing natural, biological and mining resources all other rights present in its water, land and beneath the seabed.

b. For the Republic of Tunisia:

The territory of the Republic of Tunisia, including the territorial waters, the special economic zone, as well as the continental shelf that extends beyond the borders of the territorial waters over which the Republic of Tunisia exercises its sovereignty and jurisdiction in accordance with International Law.

## **Article 2. Promotion and Protection of Investments**

1. Each of the Contracting Parties shall encourage and create favorable conditions for investors of the other Contracting Party to invest capital in its territory and shall admit such investments in accordance with its national laws and policies.
2. Each Contracting Party shall grant the necessary facilities and permits for the entrance, exit, residence and work of investors and persons whose work is permanently or temporarily related to an investment such as experts, administrative and technical staff and workers in, accordance with the applicable laws and regulations of the host country.
3. Each Contracting Party commits to providing fair and equitable treatment to investments of investors of the other Contracting Party. They also commit that the management, maintenance, use, transfer, enjoyment or termination of investments made by investors of the other Contracting Party in its territory, in addition to companies and projects related to them, shall not in any way be subject to any discriminatory or arbitrary measures.
4. Each Contracting Party in its territory shall accord the investments of investors of the other Contracting Party, starting from the entry into force of this Agreement, a treatment no less favorable than the treatment accorded to the investments and returns of its own investors.
5. If either of the Contracting Parties grants any other Arab country any preferential treatment, the other Contracting Party shall have the right to benefit from this treatment.

## **Article 3. Expropriation**

Neither Contracting Party shall harm investments of the other Contracting Party, their management, maintenance, sale or liquidation, through measures that violate applicable laws and regulations, according to the following:

1. Neither Party may nationalize or expropriate, directly or indirectly, investments of either Contracting Party in the territory of the other Contracting Party or investments of any of their investors, nor may these investments be subjected to measures having the same effects as nationalization or expropriation, unless carried out for the public interest of this contracting party and in return for a fair compensation on non-discriminatory grounds and in accordance with the laws in force, and it is allowed to transfer compensation in accordance with Article (4) of this agreement
2. Subject to the provisions of Article 5 of this agreement, the investor shall have the right to object to any of these measures and will accordingly have the right to follow different legal and judicial procedures applicable in the host country.
3. Compensation will be calculated on the basis of the fair market value of the investment, immediately before the announcement of the expropriation decision or as soon as the expropriation is announced to the public. This value will be determined according to the principles of determining the generally accepted market value.
4. Investors from either Contracting Party who suffer losses to their investments in the territory of the other Contracting Party due to war or armed conflict or
5. Revolution, a state of emergency, or insurrection, shall be accorded a treatment no less favorable than that which the other Contracting Party accords to its own investors with regard to restitution, compensation for damages or any other kind of compensation. They shall also be allowed to transfer it abroad in accordance with the provisions of Article (4) of this Agreement, together with paragraph (5) of Article Two of this Agreement.

## **Article 4. Repatriation of Capital and Returns**

Each Contracting Party shall permit the transfer of capital and returns invested in its territory abroad, in the same currency it was originally invested in or in any other freely convertible currency, without delay, including, for example:

1. Invested capital, including reinvested returns for the purpose of development and expansion.
2. Profits or shares of dividends, interest or other proceeds from any investment made by an investor in the territory of the other Contracting Party.

3. Funds resulting from the total or partial liquidation of any investment made by investors from the other Contracting Party.
4. Repayment of a loan and interest obtained from abroad in accordance with the laws and regulations in force in the host country for investment in foreign currencies for the purpose of financing or expanding the investment.
5. Compensation mentioned in Article (3) of this Agreement and payments resulting from disputes related to the project.

## **Article 5. Settlement of Disputes between a Contracting Party and an Investor of the other Contracting Party**

1. In order to find an amicable solution to any disputes arising within the framework of the provisions of this Agreement between a Contracting Party and an investor of the other Contracting Party, the two Parties to the dispute shall resort to consultations.

2. If the Parties do not reach an agreement within four months from the date of the settlement request, the investor can submit it to:

- a. The competent court of the Contracting Party in whose territory the investment has been made;
- b. The Arab Investment Court.
- c. An ad hoc tribunal.

In this case, each Party to the dispute shall appoint an arbitrator, and these two arbitrators shall appoint a Chairperson who is a national of a third country to preside over the tribunal. If one of the Contracting Parties does not appoint an arbitrator and does not heed the call of the other Party to make that appointment within two months, that arbitrator shall be appointed upon the request of that Party by the Secretary General of the League of Arab States.

If both arbitrators are unable to reach an agreement on choosing the Chairperson of the arbitral tribunal within two months after their appointment, the Chairperson shall be appointed upon the request of either Party to the dispute by the Secretary General of the League of Arab States.

Subject to other provisions agreed upon by the parties, the arbitral tribunal shall decide its own legal procedures.

Each Contracting Party shall bear the costs of its own arbitrator and representation in the arbitration sessions. The cost of the Chairperson and the remaining costs shall be borne in equal parts by the Contracting Parties.

The decisions of the arbitral tribunal shall be final and binding on both Contracting Parties.

3. Once the investor chooses to submit the dispute to one of the bodies stipulated in Paragraph (2) of this Article, that choice is final.

## **Article 6. Settlement of Disputes between the Contracting Parties**

Any dispute between the Contracting Parties regarding the interpretation or application of this agreement shall be settled through consultations between the Contracting Parties. If they do not reach an amicable agreement within twelve months after the start of the dispute at the request of either Contracting Party, then they will resort to an arbitration panel consisting of three members.

Each Party to the dispute shall appoint an arbitrator, and these two arbitrators shall appoint a Chairperson who is a national of a third country to preside over the tribunal. If one of the Contracting Parties does not appoint an arbitrator and does not heed the call of the other Party to make that appointment within two months, that arbitrator shall be appointed upon the request of that Party by the Secretary General of the League of Arab States.

If both arbitrators are unable to reach an agreement on choosing the Chairperson of the arbitral tribunal within two months after their appointment, the Chairperson shall be appointed upon the request of either Party to the dispute by the Secretary General of the League of Arab States.

Subject to other provisions agreed upon by the parties, the arbitral tribunal shall decide its own legal procedures.

Each Contracting Party shall bear the costs of its own arbitrator and representation in the arbitration sessions. The cost of the Chairperson and the remaining costs shall be borne in equal parts by the Contracting Parties.

The decisions of the arbitral tribunal shall be final and binding on each Contracting Party.

## **Article 7. Subrogation**

If either Contracting Party or its representative makes payments to any of its investors under a guarantee provided in respect of an investment, the other Contracting Party, without prejudice to the rights of the first Contracting Party under Article (5), shall recognize the transfer of any right or property of the investor to the first Contracting Party or its representative and the subrogation of any right or property by the first Contracting Party or its representative to the investor.

## **Article 8. Entry Into Force**

This Agreement shall become effective after (3) days from the date of the later of two notifications of completion of ratification procedures by the contracting Parties.

## **Article 9. Duration and Termination**

This agreement shall remain in force for a period of ten years, after which it shall be automatically renewed for similar periods unless either Contracting Party notifies the other Contracting Party in writing of its intention to terminate it one year before the date of its expiration. Investments made before the date of termination of this Agreement shall remain subject to it for a period of ten years from the date of termination.

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

Done in Tunisia on January 23, 2001, corresponding to Shawwal 28, 1421 AH, in two original copies in the Arabic language, both texts being equally authentic.

For the Government of the Republic of Tunisia

For the Government of the Syrian Arab Republic

## **Protocol**

Upon signing the Agreement between the Government of the Republic of Tunisia and the Government of the Syrian Arab Republic on the promotion and protection of investments, the following provisions were signed in addition and should be considered as an integral part of this Agreement.

(1) Capital cannot be transferred until one year after its entry into the territory of a Contracting Party, unless the legislation of that Contracting Party provides for a more favorable treatment, and that it allows the investor to invest said capital in a manner which preserves its value until the transfer is completed.

(2) The transfer shall be considered to have taken place without delay if it has occurred within the period normally necessary to complete the transfer procedures. In no case may this period exceed thirty days.

Done in Tunisia on January 23, 2001, corresponding to Shawwal 28, 1421 AH, in two original copies in the Arabic language, both texts being equally authentic.

For the Government of the Republic of Tunisia

For the Government of the Syrian Arab Republic