

AGREEMENT BETWEEN THE GOVERNMENT OF THE HELLENIC REPUBLIC AND THE GOVERNMENT OF THE TUNISIAN REPUBLIC ON THE ENCOURAGEMENT AND PROTECTION RECIPROCAL INVESTMENTS

The Government of the Hellenic Republic and the Government of the Republic of Tunisia,

Hereinafter referred to as the "Contracting Parties",

Desiring to intensify economic cooperation in the mutual benefit of the two countries on a long-term basis;

With the objective of creating favourable conditions for investment by investors of one Contracting Party in the territory of the other contracting party,

Recognizing that the promotion and protection of investments on the basis of the present Agreement are likely to stimulate initiatives in this field,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investment" means the rights, property and assets of any kind constituted or established in the territory of a Contracting Party in accordance with its laws and regulations and in particular, though not exclusively:

- a) Movable and immovable property as well as any other rights in rem, such as mortgages, liens, pledges and similar rights;
- b) Stocks and shares, debentures and any other form of participation in companies;
- c) Loans and receivables and rights to any performance having an economic value;
- d) Intellectual property rights, and industrial processes, technical know-how and good will;
- e) The concessions conferred by law or under contract, including concessions to search for, extract or exploit natural resources.

2. The term "revenue" means the amounts resulting from an investment such as profits, interests, dividends, royalties and other fees.

3. The term refers investor with regard to either Contracting Party:

- a) Natural persons who have nationality of that Party, in accordance with its laws and regulations;
- b) Legal persons constituted in accordance with the laws and regulations of that Contracting Party and having their registered office within its territory.

4. The term shall mean territory in respect of either Contracting Party, the territory under its sovereignty, including the territorial sea, as well as the underwater areas and other maritime areas over which that contracting party exercises, in accordance with international law, sovereign rights or jurisdiction.

Article 2. Promotion and Protection of Investments

1. Each Contracting Party shall promote investments in its territory by investors of the other Contracting Party and admits such investments in accordance with its legislation.

2. Investments made by investors of either Contracting Party, shall be accorded fair and equitable treatment and protection and security in the territory of the other contracting party. each Contracting Party undertakes to ensure that the maintenance, use, enjoyment or disposal within its territory of the investments of investors of the other contracting party are not hindered by unjustified or discriminatory measures.

3. Any changes in the form of investments does not affect their status as investments provided that such a change does not contradict the laws of the Contracting Party concerned.

4. Investment income and, in the event of their reinvestment in accordance with the legislation of one Contracting Party, income from such reinvestment shall enjoy the same protection as the original investment.

5. Investments which have been the object of a particular undertaking of either Contracting Party to the investors of the other Contracting Party shall be governed, without prejudice to the provisions of this Agreement, the terms of that commitment to the extent that it is more favourable provisions than those laid down in this Agreement.

Article 3. National Treatment and Most-favoured-nation Clause

1. Neither of the Contracting Parties assujettira within its territory investments of investors of the other Contracting Party to treatment less favourable than that which it accords to its own investments of investors or to investments of investors of any third State, whichever is more favourable treatment.

2. Neither of the Contracting Parties assujettira in its territory by investors of the other contracting party, in respect of activities related to their investments to treatment less favourable than that it accords to its own investors to investors or of any third State, whichever is more favourable treatment.

3. This treatment shall not apply to privileges or advantages which either Contracting Party accords to investors of a third State:

a) By virtue of its participation in or association or a customs union, a common economic market or a free trade area or any other similar institution and any other form of regional economic organization.

b) By virtue of a double taxation agreement or other agreements relating to taxation.

Article 4. Expropriation

Investments of investors of either Contracting Party shall not be expropriated or nationalized, subject to any other measure having an effect equivalent to expropriation or nationalization unless the following working condi- are met:

a) The measures are taken in the public interest and in the manner prescribed by law;

b) The measures are not discriminatory; and

c) The measures shall be accompanied by the payment of prompt, effective and adequate compensation. the amount of compensation shall correspond to the market value of the affected investments immediately before the measures referred to above shall become publicly known. such compensation shall be freely transferable and effectively realisable in freely convertible currency, at the official rate of exchange prevailing on the date of transfer. such compensation shall be transferred without delay and is subject to review in accordance with the legal procedures.

Article 5. Compensation

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, state of national emergency or other circumstances as well as to cause of requisition in the territory of the other Contracting Party, shall be accorded by the latter, as regards compensation, restitution, compensation or other indemnities, treatment no less favourable than that accorded to its own investors to investors or of any third State; the most favourable treatment. the compensation payable pursuant to this article shall be paid without delay and freely transferable.

Article 6. Repatriation of Investments and Income

1. Each Contracting Party shall in respect of investments of investors of the other Contracting Party and the transfer of their investments returns, without any restriction.

2. Such transfers shall include in particular, though not exclusively:

a) Profits, dividends, interests and other current income;

b) Payments made for the reimbursement of loans contracted, réquilèment

c) Royalties and other fees;

d) The proceeds of the sale of or the partial or total liquidation of the investment including the invested capital gains.

3. The nationals of either Contracting Party who have been authorised to work in the territory of the other party contractacte in respect of an investment shall be authorized to transfer in the country of origin of a proportion adequate remuneration in accordance with the legislation in force.

4. The transfer shall be effected without delay in a freely convertible currency, at the official rate of exchange prevailing on the date of transfer, in accordance with the procedures laid down by the legislation of the country concerned.

Article 7. Subrogation

1. If one of the contracting parties or the body designated by that Party makes a payment under given an indemnity in respect of an investment made in the territory of the other contracting party, the other party shall recognize the first assignment to the contracting party or its designated agency by that party of all the rights and claims of the party indemnified and the right of the former Contracting Party or its designated agency by that Party to exercise the rights and assert the claims, by virtue of subrogation in the same manner as the party indemnified.

2. The first Contracting Party or its designated agency by that party shall be entitled in all circumstances to the same treatment in respect of claims and the rights acquired by virtue of the assignment and any payments Resus under those rights and claims as the party was entitled to receive indemnified by virtue of this Agreement in respect of the concerned and its related investment returns.

Article 8. Settlement of Disputes between the Contracting Parties

1. Any dispute between the contracting parties concerning the interpretation or application of this Agreement shall as far as possible, be settled through diplomatic channels.

2. If a dispute cannot be settled in this way within six months from the beginning of negotiations, it shall be submitted, at the request of either contracting party to an arbitral tribunal.

3. The arbitral tribunal shall be constituted ad hoc as follows: each Contracting Party shall appoint one arbitrator and the two arbitrators shall select a national of a third State as Chairman of the arbitral tribunal. the arbitrators shall be appointed within three months and the Chairman within five months of the receipt of the notice of arbitration.

4. If within the periods specified in paragraphe (3) of this article the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make the necessary appointments. if the President is a national of either Contracting Party or if he is unable for any reason to carry out those functions, the Vice-President shall be invited to make the necessary appointments. if the Vice-President is a national of either Contracting Party or if he is also prevented from carrying out the function, the said member of the International Court of Justice, immediately following in authority and who is not a national of either Contracting Party shall be invited to make the necessary appointments.

5. The arbitral tribunal shall decide on the basis of respect for the Law, the provisions of this Agreement as well as the principles of international law.

6. The tribunal shall determine its own procedure. it interprets the award at the request of either Contracting Party. the tribunal shall reach its decision by a majority of votes. such decision shall be final and binding on the parties.

7. Each Contracting Party shall bear the cost of its own arbitrator and its representation. the costs related to the Chair and any remaining costs shall be borne in equal parts by the contracting parties.

Article 9. Settlement of Disputes between an Investor and a Contracting Party

1. Any dispute between a Contracting Party and an investor of the other contracting party relating to an investment shall, as far as possible, be settled amicably.

2. If such a dispute cannot be settled within a délai six months from the time at which it was raised by either party to the dispute, it shall be submitted at the request of the investor:

- The national courts of the Contracting Party involved in the dispute.

- The International Centre for Settlement of Investment Disputes (ICSID), established by the Convention on the settlement of disputes relating to investments between States and Nationals of Other States, opened for signature at Washington DC on 18 March 1965. each Contracting Party this Agreement hereby declare it agrees to be submitted to the arbitration procedure.

Once the investor has submitted the dispute to the courts of the Contracting Party concerned or to the Centre, the choice of one of these procedures is final.

3. The arbitral award shall be binding and shall not be subject to appeal procedures other than those laid down by the Washington Convention. the award shall be enforced in accordance with domestic law.

4. During the period of the arbitration proceedings or the enforcement of the award, the Contracting Party concerned, may not invoke the inexistence of the other Contracting Party has received compensation under a guarantee.

Article 10. Consultations

The Contracting Parties shall enter into consultations, whenever it appears necessary, on any matter concerning the implementation of this Agreement. such consultations shall be held on the proposal of one of the Contracting Parties at the time and place to be agreed upon through diplomatic channels.

Article 11. Application of other Provisions

If the legislation of a Contracting Party or international obligations existing or future conclude between the Contracting Parties in addition to the present Agreement contain a general or specific regulations, to accord investments of investors of the other contracting party to more favourable treatment than that provided for by the present Agreement, such rules shall to the extent that it is more favourable to this Agreement prevail.

Article 12. Implementation of the Agreement

This Agreement shall apply to investments made after its entry into force.

This Agreement shall also apply to all investments made in accordance with the legislation of the contracting parties prior to its entry into force as from 1 January 1957.

Article 13. Entry Into Force, Duration and Termination

1. This Agreement shall enter into force one month after the date of the exchange of instruments of ratification. it shall remain in force for a period of ten years.

2. Unless one of the Contracting Parties denounces it in writing at least one year before the expiry of the initial period of validity, this Agreement shall be extended tacitly for consecutive periods of ten years. each Contracting Party may denounce it then, with a written notice of at least one year.

3. In respect of investments made prior to the expiration of the validity of this Agreement, they will continue to benefit from the protection of its provisions for a further period of ten years.

Done at Tunis on 31 October 1993 in two originals in the Arabic, Greek, English and French languages, all texts being equally authentic.

For The Government of the Hellenic Republic

MICHAEL PAPACONSTANTINOY

For the Government of the Republic of Tunisia,

HABIB BEN YAHIA