AGREEMENT BETWEEN THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN AND THE GOVERNMENT OF THE KINGDOM OF MOROCCO FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Islamic Republic of Pakistan and the Government of the Kingdom of Morocco hereinafter referred to as the "Contracting Parties"

Desiring to expand and strengthen economic and industrial cooperation on a long-term basis, and in particular, to create favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party.

Recognizing the need to protect investments by investors of both Contracting Parties and to stimulate the flow of investments and individual business initiative with a view to promoting the economic prosperity of both Contracting Parties;

Have agreed as follows:

Article 1. Definitions

1- For the purpose of this Agreement.

(a) "investment" means every kind of asset invested in accordance with legislation and regulations in force in the territory of each of the Contracting Parties, and in particular, though not exclusively, include:

(i) Movable and immovable property and any other property rights such as mortgages, liens and pledges;

(ii) Shares, stocks and debentures of companies or interests in the property of such companies;

(iii) A claim to money or a claim to any performance having financial value:

(iv) Intellectual and industrial property rights, including rights with respect to copyrights, patents, trademarks, trade names, industrial designs, trade secrets, technical processes and know-how and goodwill;

(v) Business concessions conferred by law or under contract, including concessions to search for, cultivate, extract, or exploit natural resources;

(b) "returns" means the amounts after taxes yielded by an investment and in particular, though not exclusively, includes profits, interest, capital gains, dividends, royalties or fees.

(c) "investor" means in respect of each Contracting Party

(i) Any physical person having Moroccan or Pakistani nationality under the law in force in each of the Contracting Parties:

(ii) Any, corporation or partnership, trust joint-venture, enterprise or other association constituted in accordance with applicable laws of each of the Contracting Parties, and having their headquarters in the territory of this Contracting Party;

(d) "territory" means:

(i) With respect to the Islamic Republic of Pakistan: The term Pakistan means Pakistan as defined in the Constitution of the Islamic Republic of Pakistan and includes any areas outside the territorial waters of Pakistan which under the laws of Pakistan and in accordance with International Law is an area within which the rights of Pakistan with respect to the sea-soil and superjacent waters and their natural resources may be exercised.

(ii) With respect to the Kingdom of Morocco: the territory of the Kingdom of Morocco, including any maritime areas situated beyond the territorial waters of the Kingdom of Morocco and which has been or might in the future be designated by the laws of the Kingdom of Morocco in accordance with international law as an area with in which the Kingdom of Morocco may exercise rights with regard to the sea-bed and subsoil and the natural resources.

(e) "freely usable currency" means the United States dollar, pound sterling, Duetschemark, French franc, Japanese yen or any other currency that is widely used to make payments for international transactions and widely traded in the international principal exchange markets.

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(i) The term "investments " referred to in paragraph 1(a) shall only refer to all investments that are made in accordance with the laws and regulations of the Contracting Party.

(ii) Any alteration of the form in which assets are invested shall not affect their classification as investments, provided that such alterations is not contrary to the approval, if any granted in respect of the assets originally invested.

Article 2. Promotion and Protection of Investments

1- Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to invest capital in its territory and, in accordance with its laws and regulations, shall admit such investments.

2- Each Contracting Party shall at all times ensure fair and equitable treatment and subject to strictly necessary measures to maintain the public order, provide full protection and security for investments of investors of the other Contracting Party. Neither Contracting Party shall impair by discriminatory measures the management, maintenance, use, enjoyment or disposal of investments in its territory of investors of other Contracting Party.

Article 3. Most-favoured-nation Provisions

1- Investments made by investors of either Contracting Party in the territory of the other Contracting Party shall receive treatment which is fair and equitable, and not less favourable than that accorded to investments of its own investors or to investments of investors of any third state.

2- The provisions of this Agreement relative to the granting of treatment not less favourable than that accorded to the investors of any third State shall not be construed so as to oblige one Contracting Party to extend to the Investors of the other the benefit of any treatment, preference or privilege resulting from:

(a) Any existing or future customs union or free trade area or a common market or a monetary union or similar international agreement or other forms of regional cooperation to which either of the Contracting Parties is or may become a party; or the adoption of an agreement designed to lead to the formulation or extension of such a union or area within a reasonable length of time; or

(b) Any international agreement or arrangement relating wholly or mainly to taxation.

Article 4. Compensation for Losses

Investors of one of the Contracting Parties 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 other similar events, in the territory of the later Contracting Party, shall receive treatment no less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State; whichever is the more favourable treatment being adopted as regards restitution, indemnification, compensation or other settlement in respect of the said losses.

Article 5. Expropriation

Neither Contracting Party shall take any measures of expropriation or nationalization against the investments of any investor of the other Contracting Party except under the following conditions.

(a) The measures are taken for a lawful or public purpose and under due process of law;

(b) The measures are non-discriminatory;

(c) The measures are accompanied by provisions for the payment of prompt adequate and effective compensation. Such compensation shall amount to the market value of the investments affected immediately before the measures of dispossession became public knowledge, and it shall be freely transferable in freely usable currencies from the Contracting Party. Any unreasonable delay in payment of compensation shall carry an interest at prevailing commercial rate as agreed upon by both parties unless such rate is prescribed by law.

Article 6. Repatriation of Investment

1- Each Contracting Party shall, subject to its laws and regulations, allow without unreasonable delay to investors of the other contracting Party the transfer of their assets invested, in particular though not exclusively include:

(a) The net profits, dividends, royalties, technical assistance and technical fees interest and other current income, accruing from any investment of the investors of the other Contracting Party,

(b) The proceeds from the total or partial liquidation of any investment made by investors of the other Contracting Party.

(c) Funds in repayment of borrowings / loans given by investors of one Contracting Party to the investors of the other Contracting Party which both Contracting Parties have recognized as investment, and

(d) The net earnings and other remunerations received by the nationals of one Contracting Party who have obtained in the territory of the other Contracting Party the corresponding work permits relative to an investment, pursuant to the exchange regulations in force in each Contracting Party.

2- The exchange rates applicable to such transfer in the paragraph 1 of the Article shall be the rate of exchange prevailing at the time of remittance.

3- The Contracting Parties undertake to accord to the transfer, referred to in paragraph 1 of this Article a treatment as favourable as that accorded to transfer originating from investments made by investors of any third State

Article 7. Settlement of Investment Disputes between a Contracting Party and Investor of the other Contracting Party

1- Each Contracting Party consents to submit to the International Centre for the Settlement of Investment Disputes (hereinafter referred to as "the Centre ") for settlement by conciliation or arbitration under the Convention of the Settlement of Investment Disputes between States and National of other States opened for signature at Washington D.C. on 18th March 1965 any dispute arising between that Contracting Party and an investor of the other Contracting Party which involves:

(i) An obligation entered into by that Contracting Party with the investor of the other Contracting Party regarding an investment by such investor: or

(ii) An alleged breach of any right conferred or created by this Agreement with respect to an investment by such investor.

2- A company which is incorporated or constituted under the laws in force in the territory of one Contracting Party and in which before such a disputes arises the majority of shares are owned by investors of the other Contracting Party shall in accordance with Article 25(b) of the Convention be treated for the purpose of this Convention as a company of the other Contracting Party.

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(i) If any dispute referred to in paragraph 1 should arise, the Contracting Party and the investor concerned shall seek to resolve the dispute through consultation and negotiation. If the dispute cannot thus be resolved within three (3) months, then if the investor concerned also consents in writing to submit the dispute to the Centre for settlement by conciliation or arbitration under the Convention, either party to the dispute may institute proceedings by addressing a request to that effect to the Secretary General of the Centre as set forth in Articles 28 and 36 of the Convention provided that the investor concerned has not submitted the dispute to the courts of justice or administrative tribunals or agencies of competent jurisdiction of the Contracting Party that is party to the dispute.

(ii) In the event of disagreement as to whether conciliation or arbitration is the more appropriate procedure, the opinion of the investor concerned shall prevail. The Contracting Party which is a party to the dispute shall not raise as an objection, defense, or right of set-off at any stage of the proceedings or enforcement of an award the fact that the investor which is the other party to the dispute has received or will receive pursuant to an insurance or guarantee contract, an indemnity or other compensation for all or part of his or its losses and damages.

4- Neither Contracting party shall pursue through diplomatic channels any dispute referred to the Center unless:

(i) The Secretary General of the Centre, or a conciliation commission or an arbitral tribunal constituted by it decides that the dispute is not within the jurisdiction of the Centre; or

(ii) The other Contracting Party should fail to abide by or to comply with any award rendered by an arbitral tribunal.

Article 8. Settlement of Disputes between the Contracting Parties

1- Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should is possible be settled through diplomatic channels.

2- If a dispute between the Contracting Parties cannot thus 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 appoint one member of the tribunal. Those two members shall then select a national of a third State who on approval by the two Contracting Parties shall be appointed Chairman of the tribunal. The Chairman shall be appointed within two (2) months from the date of appointment of the other two members.

4- If within the periods specified in paragraph 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 necessary appointments. If the President is a national of either Contracting Party or if he is otherwise prevented from discharging the said function, 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 too is prevented from discharging the said function, the member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointments.

5- 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 shall determine its own procedure.

Article 9. Subrogation

1- If a payment under an indemnity has given to an investor of one of the Contracting Party under a legal insurance against non-commercial risks in respect of an investment in the territory of the other Contracting Party the latter Contracting Party shall recognize the insurer the assignment of all the rights and claims of the party indemnified.

2- In case of the insurance, the insurer is entitled to exercise such rights and which the investor would have been entitled to exercise

3- Disputes between one of the Contracting Parties and an insurer shall be settled in accordance with the provisions of Article 7 of this Agreement.

Article 10. Application to Investment

The Agreement shall also apply to investments made in the territory of one Contracting Party in accordance with its legislation by investors of the other Contracting Party before the entry into force of this Agreement. But the provisions of this Agreement shall not apply to disputes happened before its entering into force.

Article 11. Amendment

This agreement may be amended by mutual consent of both Contracting Parties at any time after it is in force. Any alteration or modification of this agreement shall be done without prejudice to the rights and obligation arising from this agreement prior to the date of such alteration or modification until such rights and obligations are fully implemented.

Article 12. Entry Into Force Duration and Termination

1- This Agreement shall enter into force thirty (30) days after the lauer date on which the Governments of the Contracting Parties have notified each other that their constitutional requirements for the entry into force of this Agreement have been fulfilled. The latter date shall refer to the date on which the last notification letter is sent.

2- This Agreement shall remain in force for a period of ten (10) years, and shall continue in force, unless terminated in accordance with paragraph 3 of this Article.

3- Either Contracting Party may be giving one (1) year's written notice to the other Contracting Party, terminate this

Agreement at the end of the initial ten (10) years period or any time thereafter.

With respect to investments made or acquired prior to the date of termination of this Agreement, the provisions of all of the other Articles of this Agreement shall continue to be effective for a period of ten (10) years from such date of termination.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Islamabad on 16th April, 2001 in Arabic and the English Language, both texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For the Government of the Islamic Republic of Pakistan

Abdul Razak Dawood

Minister for Commerce

For the Government of the Kingdom of Morocco

Mustapha Mansouri

Minister of Industry, Commerce, Energy and Mines