

# **AGREEMENT BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN ON THE RECIPROCAL ENCOURAGEMENT AND PROTECTION OF INVESTMENTS**

The Government of the French Republic and the Government of the Islamic Republic of Iran, hereinafter referred to as "the Contracting Parties";

Desiring to intensify and strengthen economic cooperation between the two States for their mutual benefit;

Proposing to utilize their economic resources and potential infrastructure in the field of investment and to create favorable conditions for investments by the nationals of one Contracting Party in the territory of the other Party;

Recognizing the need to encourage and protect investments of the nationals of a Contracting Party in the territory of the other Party;

Have agreed on the following provisions:

## **Article 1. Definitions**

For the purposes of this Agreement:

1. The term "investment" means all property and assets, including those listed below, invested by investors of a Contracting Party in the territory of the other Party in accordance with the laws and regulations of the other Party (hereinafter referred to as the host Contracting Party):

- a) movable and immovable property and rights therein such as mortgages, liens, usufructs, bonds and any similar rights ;
- b) Shares and any other form of participation in a company;
- c) Claims or rights to any legitimate benefits with a financial value;
- d) Industrial and intellectual property rights such as copyrights, patents, licenses, trademarks, industrial models, technical processes, know-how, registered names and goodwill;
- e) All rights having a financial value, in particular rights relating to the exploration, extraction or exploitation of natural resources;

A change in the form in which the assets are invested does not affect their qualification as an investment, provided that such change is in accordance with the terms and conditions of the license issued for that particular investment.

2. The term "investors" means the persons listed below who invest in the territory of the other Contracting Party under this Agreement:

- i) natural persons who, in accordance with the legislation of one of the Contracting Parties, are considered to be its nationals ;
- ii) entities incorporated or registered in accordance with the legislation of that Party and having their registered office in the territory of that Party.

3. The term "income" means amounts legally generated by an investment, such as profits, interest, capital gains, dividends, royalties or commissions.

4. The term "territory" means:

- i) with respect to the Islamic Republic of Iran, the areas under the sovereignty or jurisdiction of the Islamic Republic of Iran,

and its maritime zone;

ii) with respect to the French Republic, the territory of the French Republic as well as its maritime zone, defined as the economic zone and the continental shelf which extend beyond the limits of the territorial waters and over which the French Republic has, in conformity with international law, sovereign rights and jurisdiction for the purpose of exploration, exploitation and preservation of natural resources.

5. Nothing in this Agreement shall be construed to prevent either Contracting Party from making any provision for the regulation of investments by foreign investors and the conditions of activity of such investors, in the context of measures designed to preserve and encourage its culture.

## **Article 2. Admission of Investments**

Each Contracting Party shall admit into its territory, in accordance with its legislation and the provisions of this Agreement, investments made by investors of the other Party. The competent authorities designated in Article 10 may make such admission subject to compliance with certain conditions.

## **Article 3. Fair and Equitable Treatment**

Each Contracting Party undertakes to accord fair and equitable treatment to investments of investors of the other Party in its territory, and to ensure that the exercise of such treatment is not impeded in law or in fact.

The Contracting Parties shall, within the framework of their domestic legislation, give sympathetic consideration to applications for entry and authorization to reside, work and travel made by investors of one of the Contracting Parties in respect of an investment made in the territory of the other Contracting Party.

## **Article 4. National Treatment and Most-favoured-nation Treatment**

1. (a) Each Contracting Party shall apply in its territory to investors of the other Party, in respect of their investments and the management, conduct, monitoring, use, benefit, disposal and liquidation of such investments, treatment no less favourable than that accorded to its investors, or the treatment accorded to investors of a third State, whichever is more favourable.

(b) In particular, restrictions on the purchase or transportation of raw and auxiliary materials, energy or fuel, and any means of production and operation, and impediments to the sale of products within the country and abroad, as well as any other measure of equivalent effect, shall be considered as "less favorable treatment" within the meaning of paragraph 1(a) of this Article.

2. This treatment shall not, however, necessarily extend to any privileges or rights which a contracting party has granted or will grant to an investor or investors of any third State under any existing or future agreement relating to the establishment of a free trade area, customs union, common market or any other form of regional economic organization.

The provisions of this Article shall not apply to tax matters.

## **Article 5. Expropriation and Compensation**

1. The Contracting Parties shall not take measures of nationalization, confiscation, expropriation, or any other measure of equivalent effect, in respect of investments made by investors of the other Party, except in the public interest, in accordance with a legal procedure, and provided that such measures are non-discriminatory and give rise to prompt, effective and adequate compensation.

2. The compensation shall be equivalent to the value of the investment immediately before the nationalization, confiscation or expropriation took place or before it was made public.

3. Compensation shall be paid without delay. Any delay will increase the amount of such compensation by the corresponding costs. This compensation is effectively realizable and freely transferable.

## **Article 6. Losses**

The nationals or companies of one of the contracting parties whose investments have suffered losses due to war or any other armed conflict, revolution, state of national emergency or revolt occurring in the territory of the other contracting party, shall receive from the latter treatment no less favourable than that accorded to its own nationals or companies or to

those of the most favoured nation.

## **Article 7. Transfer**

1. Each Contracting Party shall ensure that transfers relating to the investments referred to in this Agreement are made freely and without delay. Such transfers shall include:

- i) income as defined in Article 1 ;
- ii) proceeds from the disposal or liquidation of the investment in whole or in part
- iii) installment payments on loans related to an investment, provided that such payments are financed by such investment activities;
- iv) payments made pursuant to Articles 5 and 6 of this Agreement;
- v) payments pursuant to a decision under Article 8 of this Agreement
- vi) monthly wages and salaries received by employees of an investor who have been authorized to work in the territory of the host Contracting Party.

2. The above transfers shall be made without delay in a convertible currency at the official rate of exchange prevailing on the date of transfer.

3. In the event of a serious imbalance, or threat thereof, in its balance of payments, either Contracting Party may temporarily apply restrictions on transfers, provided that such restrictions do not exceed six months in duration and are imposed on an equitable, non-discriminatory and good faith basis.

4. Without prejudice to paragraphs 1 and 2, a Contracting Party may prevent a transfer by the application, on an equitable, non-discriminatory and good faith basis, of measures to protect the rights of creditors or in connection with criminal offences, orders or judgments in administrative or judicial proceedings, provided that such measures and their application are not used by the Contracting Party for the purpose of avoiding its commitments or obligations under this Agreement.

## **Article 8. Settlement of Disputes between an Investor and a Contracting Party**

1. In the event of an investment dispute between the host Contracting Party and an investor of the other Party, the latter shall endeavor to settle the dispute through negotiations and consultations.

2. If the negotiations and consultations provided for in paragraph 1 of this Article fail to resolve the dispute within six months from the date on which the dispute arose, the investor concerned may submit the dispute to arbitration:

- a) The competent courts of the host Contracting Party ;
- b) the International Centre for Settlement of Investment Disputes, established by the Washington Convention of March 18, 1965, on the Settlement of Investment Disputes between States and Nationals of Other States, if the contracting party to the dispute has acceded to the Convention of the International Centre for Settlement of Investment Disputes
- c) an ad hoc arbitral tribunal constituted under the Arbitration Rules of the United Nations Commission on International Trade Law ("UNCITRAL"), if the Contracting Party, which is a party to the dispute, is not a party to the Convention of the International Centre for Settlement of Investment Disputes.

## **Article 9. Subrogation**

1. If a Contracting Party or an institution designated by it makes a payment under an insurance or guarantee contract for the benefit of any investor :

- i) the host Contracting Party shall recognize the subrogation of the other Contracting Party under the said insurance or guarantee contract;
- ii) the subrogee shall be entitled to exercise the same rights as the investor would have been entitled to exercise;
- iii) disputes between the subrogee and the host Contracting Party shall be settled in accordance with Article 8 of this Agreement, without prejudice to the rights of a government subrogee under Article 11. The subrogee may nevertheless authorize the investor to assert subrogee rights against the host Contracting Party.

## **Article 10. Scope of Application of the Agreement**

This Agreement shall apply to investments and reinvestments made before and after its entry into force by investors of one of the Contracting Parties in the territory of the other Party, provided that such investments and reinvestments have been authorized, if required by the applicable laws and regulations of the host Contracting Party, by the competent authorities of that Party. In the territory of the Islamic Republic of Iran, the competent authority shall be the Organization for Investment and Economic and Technical Assistance in Iran (OEITAI) or its successor body.

## **Article 11. Settlement of Disputes between Contracting Parties**

1. Disputes concerning the interpretation or application of this Agreement shall be settled, to the extent possible, through consultations and negotiations.
2. If the dispute is not settled within six months from the date on which it was raised by either Contracting Party, it shall be submitted, at the request of either Contracting Party, to an arbitration tribunal.
3. The said tribunal shall be constituted for each particular case in the following manner: each Contracting Party shall appoint one member, and the two members shall appoint, by mutual agreement, a national of a third State who shall be nominated as President of the tribunal by both Contracting Parties. All members shall be appointed within two months of the date on which one Contracting Party has notified the other Contracting Party of its intention to submit the dispute to arbitration.
4. If the time limits laid down in paragraph 3 above have not been observed, either Contracting Party shall, 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 for any other reason he is prevented from exercising this function, the most senior member who is not a national of either Contracting Party shall make the necessary appointments.
5. The arbitration tribunal shall take its decisions by a majority vote. Such decisions shall be final and binding on the Contracting Parties.

The tribunal shall determine its own rules. It shall interpret the award at the request of either Contracting Party. Unless the tribunal decides otherwise, taking into account particular circumstances, the costs of the arbitration proceedings, including the fees of the arbitrators, shall be shared equally by the Contracting Parties.

## **Article 12. Entry Into Force and Validity of the Agreement**

1. This Agreement shall be subject to ratification by the competent authorities of each Contracting Party.
2. This Agreement shall enter into force, for a period of ten years, thirty days after the date of the last notification by either Contracting Party informing the other that the procedures required by its legislation for the entry into force of the Agreement have been completed.
3. This Agreement shall remain in force after that date unless either Party notifies the other Party in writing of its intention to terminate the Agreement at least one year prior to the expiration or termination of the Agreement.
4. After the expiration and termination of this Agreement, its provisions shall continue to apply to investments made while it was in force for a further period of fifteen years.

Done in two originals, each in the Persian and French languages, both texts being equally authentic.

Signed in Tehran on 12 May 2003, corresponding to 22 Ordibehesht 1382, by the representatives of the French Republic and the Islamic Republic of Iran.

For the Government of the French Republic :

François Loos

Minister Delegate for Foreign Trade

For the Government of the of the Islamic Republic of Iran :

Mohammad Shariatmadari

Minister of Commerce