

# **Agreement between the Government of the Lebanese Republic and the Government of the Republic of Tunisia on the promotion and mutual protection of investments**

The Government of the Republic of Lebanon and the Government of the Republic of Tunisia hereinafter referred to as the Contracting Parties.

Desiring to strengthen economic cooperation in the mutual benefit of both countries and determined to find and maintain appropriate conditions for investment by investors of one of the Contracting Parties in the territory of the other Contracting Party.

Recognizing that the promotion and protection of investments under this Agreement would stimulate initiatives to invest in order to promote economic prosperity of both countries.

We have agreed as follows:

## **Article 1. Definitions**

For the purposes of this Agreement

1. The term "investor" in respect of either Contracting Party shall refer to the following:

- a. Natural persons who hold the nationality of that Contracting Party in accordance with the laws and regulations in force therein and who invest in the territory of the other Contracting Party.
- b. Legal persons, created or established in accordance with the laws and regulations of a Contracting Party and which invest in the territory of the other Contracting Party.

2. The term "investments" includes all types of assets, including but not limited to:

- a. Movable and immovable properties, as well as any other rights in kind, such as mortgages, guarantees and privileges, usufruct rights and any other similar rights.
- b. Stocks, shares and any other type of corporate contributions.
- c. Bonds, debts and rights arising from any services having economic value.
- d. Intellectual and industrial property rights, including, but not limited to, copyright, trademarks, patents, designs, industrial designs, technical processes, expertise, trade secrets, trade names and goodwill.
- e. The business privileges which granted under the law, including franchises for prospecting, extraction or investment of natural resources, as well as all other rights conferred by law, by contract, or in accordance with the decision of the Authority based on the law.

Any change in the form in which the assets are invested or reinvested shall not affect its character as an investment, as long as, that such change is made in accordance with the laws and regulations of the Contracting Party on which the investment is made.

3. The term "proceeds" means the amounts earned from the investment, including but not limited to profits including dividends, interest, capital gains, royalties and bonuses.

4. The term "territories" means the territories of the Contracting Parties, including the territorial waters, the economic zone as well as the continental shelf which is extending beyond the territorial waters to which the concerned Contracting Party exercises sovereignty, sovereign rights and jurisdiction in accordance with international law.

## **Article 2. Promoting and Protecting Investments**

1. Each Contracting Party should, insofar as possible, encourage investments in its territory by investors of the other Contracting Party and accept such investments in accordance with its laws and regulations.
2. Each Contracting Party, in accordance with its laws and regulations, allow investors of either Contracting Party to enter and reside in the territory of the other Contracting Party and to employ senior administratives and technical upon their choice, irrespective of their nationality.
3. Investments of the investors of either Contracting Party enjoys the protection and guarantee of insurance in the territory of the other Contracting Party.
4. Each Contracting Party should, within its territory, protect the investments made in accordance with its laws and regulations by investors of the other Contracting Party and shall not be prejudiced by illegal or discriminatory procedures for the management, continuation, use, extension, sale or liquidation of such investments.

## **Article 3. Mfn Treatment**

1. Each Contracting Party shall ensure fair and equitable treatment within its territory for the investments of the investors of the other Contracting Party. Such treatment shall not be less favorable than that accorded by each Contracting Party to investments made on its territory by its investors or which accorded by any contracting Party to the investments made on its territory by the investors of any third State provided that the most favorable treatment should be granted.
2. The treatment of the MFN shall not be construed so as to bind a Contracting Party to grant to the investors and investments of the other Contracting Party the advantages resulting from any existing or future customs or economic union, free trade area or regional economic organization which is either of the contracting parties is a member of any of these or may become a member thereof.

Such treatment does not include any advantage which either of the Contracting Parties give to investors of a third State under a double taxation agreement or other agreements on a reciprocal basis relating to taxation.

## **Article 4. Expropriation and Compensation**

1. Each Contracting Party has to commit not to take, directly or indirectly, expropriation or nationalization proceedings or take any other measures having the same effect on the investment of the investors of the other Contracting Party, unless such actions are taken for the public benefit as prescribed in law, on a non-discriminatory basis under the legal means, and shall be an effective and appropriate compensation to be paid without any discrimination, compensation has to be calculated on the basis of the fair market value of the investment directly prior to the declaration of expropriation, Or as soon as the public is informed of such expropriation, This compensation must be paid without delay and includes compensation for any delay in payment that may take place from the date of expropriation provided that the investor is not the cause of such delay, and It should be freely convertible.

The legitimacy of any expropriation, nationalization or similar procedures, and the amount of compensation, are subject to review by legal means.

2. The provisions of paragraph (1) of this Article also applies when a Contracting Party expropriates the ownership of the assets of a company established under the law in force in any part of its territory In which investors from the other Contracting Party hold shares therein.
3. The investors of any Contracting Party whose investments have incurred losses in the territory of the other Contracting Party due to the outbreak of war or other armed conflict, revolution, state of emergency or disobedience shall be accorded a treatment in respect of restitution to the owner or compensation for damages or recoupment or other valuable compensation shall not be less favorable than that accorded by the last Contracting Party to its investors or to the investors of any third country, whichever is the most favorable. These payments shall be freely convertible.

## **Article 5. Free Conversion**

1. Each Contracting Party allows the investors of the other Contracting Party to invest in its territory a free transfer of payments relating to such investments, including, but not limited to, the following:

- a. Proceeds in accordance with paragraph (3) of Article 1 of this Agreement.

- b. Amounts related to the payment of loans or other similar contractual obligations related to the investment.
  - c. Collected proceeds from the total or partial sale of the investment or from the proceeds of the transfer of ownership or liquidation.
  - d. Gains and other compensations received by nationals of the other Contracting Party who are permitted to work with regard to an investment situated on the territory of the other Contracting Party.
  - e. Capital and additional amounts earmarked for the continuation or expanding of investment.
  - f. Compensation paid under Article 4 of this Agreement.
2. Transfers are made in any convertible currency and at the exchange rate at which the transaction takes place.

## **Article 6. The Principle of Replacing the Investor**

1. If a Contracting Party, its designated agency or any other party designated by it (the Guarantor Party); that is affiliated to it makes payments under compensation or guarantee against non-commercial risks made in respect of an investment in the territory of the other Contracting Party, This latter Contracting Party should recognize:
- a. Waiver to the Guarantor Party; by law or legal agreement, for all rights and claims arising from such investment.
  - b. The Guarantor Party has the right to exercise such rights and to implement those claims and obligations relating to the investment on the basis of the principle of replacing the creditor.
2. In all circumstances, the Guarantor Party will be entitled to:
- a. The same treatment that relate to the rights and claims acquired and commitments made, Referred to in paragraph 1 above.
  - b. Any payments received under these rights and claims.
3. The other contracting party will be entitled to do clearing between the taxes and other general expenses which are due and payable by the investor and what is required of it.

## **Article 7. Dispute Settlements between a Contracting Party and an Investor of the other Contracting Party**

1. Disputes relating to investments will be settled between a Contracting Party and an investor of the other Contracting Party; and to the extent possible through, negotiation between the parties concerned with a view to resolving the dispute amicably.
2. If these negotiations do not lead to a solution within six months from the date of the written request for a settlement, the investor will be entitled to submit the dispute to the settlement and upon his choice to any of the following:
- a. The competent court of the Contracting Party of which the investment was made on its territory;
  - b. In accordance with the provisions of the Special Chapter on the Dispute Settlements of the unified agreement for the investment of Arab capital in the Arab States of 1980, or;
  - c. The International Center for the Settlement of Investment Disputes, established in accordance with the Convention on the Settlement of Disputes Relating to Investments between States and Nationals, opened for signature in Washington on March 18, 1965, in the event that both Contracting Parties become party to this convention or;
  - d. The rules of additional facilities for the International Center for Settlement of Investment Disputes, under the condition that either the contracting party or the contracting party of the investor is a member of the ICSID Convention and not both are members, or
  - e. An arbitral tribunal established for this purpose in accordance with the Arbitration Regulations of the United Nations Commission under the International Trade Law.

The selection of one of the entities provided for in subparagraphs (a), (b), (c), (d) and (e) of this Article by the investor will be final

3. The arbitral tribunal decides the matter of dispute in accordance with the provisions of this Agreement and the rules and

principles of international law in force. Arbitration decisions are final and binding on both parties. Each Contracting Party shall implement without delay any such decision. Such decision shall be applied in accordance with local laws and regulations.

4. The Contracting Party which is a party to the dispute shall not at any time during the legal proceedings of the dispute settlement as a defense TO ARGUE of its immunity or upon the fact that the investor has received compensation under an insurance contract which covering the damages or losses that are suffered wholly or partially.

## **Article 8. Disputes Settlement between the Contracting Parties**

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

2. If both Contracting Parties are unable to reach an agreement within six months of the commencement of the negotiations, the dispute shall be submitted at the request of either Contracting Party to a three-member arbitral tribunal. Each Contracting Party has to appoint one arbitrator, the two arbitrators should appoint a Chairman of the arbitral tribunal to be a citizen of a third country.

3. If a Contracting Party has not appointed its arbitrator or has not complied with the invitation of the other Contracting Party to make such appointment within two months, such arbitrator shall be appointed by the President of the International Court of Justice at the request of that Contracting Party.

4. If both arbitrators are unable to reach an agreement on the selection of the Chairman of the Arbitral Tribunal within two months after their appointment, such President (chairman) shall be appointed at the request of either Contracting Party by the President of the International Court of Justice.

5. If the President of the International Court of Justice, in the cases referred to in paragraphs (3) and (4) of this article, has prevented to complete the said task or if he is a national of either Contracting Party, such appointment shall be made by the President of the International Court of Justice. If the latter has prevented from performing the said task or if he is a national of either Contracting Party, such appointment shall be made by a member of the Court of Seniority who is not a national of either Contracting Party.

6. The arbitral tribunal reaches its decision by a majority of the votes.

7. The arbitral tribunal issues its decisions on the basis of respect for the law and the provisions contained in this Agreement, as well as on the basis of the principles of international law.

8. Taking into consideration the other provisions agreed upon by the Contracting Parties, the arbitral tribunal determines its legal procedures.

9. Each Contracting Party bears the expenses of the arbitrator appointed by it and the expenses of his representation in the arbitral proceedings. The Contracting Parties jointly bear the expenses of the Chairman of the Arbitral Tribunal and the remaining expenses equally. The arbitral tribunal may establish a different system of expenditure.

10. Decisions of the Arbitral Tribunal are final and binding on each Contracting Party.

## **Article 9. Other Obligations**

If the legislation of either Contracting Party or the international agreements relating to investments which are in existence or might be signed in the future by the Contracting Parties in addition to this Agreement contain an arrangement give investments by investors of the other Contracting Party the right to more favorable treatment than provided for in this Agreement, the priority of the application of that legislation will be to the extent that it is more favorable.

## **Article 10. Previous Investments of the Convention**

When this Convention enters into force, it also applies on investments which are on the territory of a Contracting Party; in accordance with its laws and regulations, by investors of the other Contracting Party from the 1st of January 1957. However, this Convention does not apply to disputes that have arisen prior to its entry into force.

## **Article 11. Final Provisions**

1. This Agreement enters into force thirty days after the date of the exchange of the instruments of ratification between the

Contracting Parties indicating that the necessary legal procedures are completed for the entry into force of this Agreement. This Agreement remains in force for a period of ten years and will be extended thereafter for an indefinite period unless either Contracting Party give a written notice to the other contracting party of its termination, to be twelve months before the date of its termination.

2. If a formal notice is given to terminate this Agreement, the provisions of Articles 1 to 10 remain valid for a further period of ten years for the investments made before the official notification is given.

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

Done in two original copies in \_\_\_\_\_ date \_\_\_\_\_, in Arabic, and each copy is considered original.

For the Government of the Republic of Tunisia

For the Government of the Republic of Lebanon