

AGREEMENT FOR THE PROMOTION AND PROTECTION OF INVESTMENTS BETWEEN THE ARAB REPUBLIC OF EGYPT AND THE REPUBLIC OF ZAMBIA

The Government of the Arab Republic of Egypt and the Government of the Republic of Zambia, hereinafter referred to as the "Contracting Parties";

Desiring to create favorable conditions for greater economic cooperation between them, and in particular for investments by investors of one Contracting Party in the territory of the other Contracting Party;

Recognizing that the encouragement and reciprocal protection of such investments will be conducive to the stimulation of business initiatives and will increase prosperity in the territory of both Contracting Parties;

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1) The term "Investment" shall comprise every kind of asset invested by a natural or juridical person including the Government of a Contracting party, in the territory of the other Contracting Party in accordance with the laws and the regulations of that Contracting Party.

Without restricting the generality of the foregoing, the term "Investment" shall include: A. Movable and immovable property as well as any other property rights in rem such as mortgages, guarantees, pledges, usufruct and similar rights;

B. Shares, stocks and debentures of companies, or other rights or interests in such companies;

C. Claims to money, or to any performance having economic value associated with an investment;

D. Intellectual property rights including copyrights, trademarks, patents, industrial designs, technical process, know-how, trade juridical rights and good will; and

E. Any rights conferred by laws or under contract and any licenses and permits pursuant to law, including the concessions to search for, extract, cultivate and exploit natural resources. A change in the form in which assets are invested does not affect their character as investments.

2) Investment does not mean claims to money that arise solely from;

A. Commercial contracts for the sale of goods or services by a national or enterprise in the territory of a Party to an enterprise in the territory of another Party, or

B. The extension of credit in connection with a commercial transaction such as trade financing.

3) The term "Investor" shall mean any natural or juridical person, including the Government of a Contracting Party who invests in the territory of the other Contracting Party.

The terms: A. "Natural persons" means, with respect to either Contracting Party, a natural person holding the nationality of that Party in accordance with its laws; and

B. "Juridical person" means, with respect to either Contracting Party, any entity established in accordance with, and recognizing as a juridical person by its laws, such as public institutions, corporations, foundations, private companies, firms, establishments and organisations, and having permanent residence in the territory of that Contracting Party

4) The term "returns" refers to incomes deriving from an investment in accordance with the definition contained above and

includes, in particular (although not exclusively) profits, dividends, interests and royalties.

5) The term "territory" means:

A. With respect to the Arab Republic of Egypt: The territory of the Arab Republic of Egypt as well as the land territory and territorial waters, the exclusive economic zone and the continental shelf that extends outside the limits of the territorial waters of Egypt over which it has jurisdiction and sovereign rights pursuant to international law.

B. With respect to the Republic of Zambia: All the territories of the Republic of Zambia, including islands, lakes and riverine areas of Zambia, which has been or might in the future be designated under the national law of Zambia in accordance with international law, as an area within which Zambia may exercise sovereign rights and jurisdiction.

Article 2. Promotion and Protection of Investments

1) Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party in its territory, and subject to its right to exercise powers conferred by its laws, shall admit such investment.

2) Investments of investors of each Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy adequate protection and security in the territory of the other Contracting Party. Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment or disposal of investment in its territory of investors of the other Contracting Party.

3) If necessary, The Contracting Parties shall periodically consult between themselves concerning investment opportunities within each other's territory in various sectors of the economy, to determine where investments may be most beneficial, in the interest of both Contracting Parties.

Article 3. Treatment of Investment

1- Investments of investors of one Contracting Party in the territory of the other Contracting Party and also the returns there from shall receive treatment which is fair and equitable and no less favourable than that accorded in respect of the investments of investors of any third state.

2- Each Contracting Party shall in its territory accord to investors of the other Contracting Party as regards the management, use, enjoyment or disposal of their investment, treatment which is fair and equitable and not less favourable than that which is accorded to investors of any third state.

3- The treatment mentioned above shall not apply to any advantage or privilege accorded to investors of a third State by either Contracting Party based on the membership of that Contracting Party in customs Union, Common Market, free Trade Zone, economic multilateral international agreement, or based on an agreement concluded between that Party and a third State on Avoidance of Double Taxation or based on cross border trade.

Article 4. Compensation for Losses

Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflicts, revolution, a state of national emergency, revolt, insurrection or riot in the territory of the latter Contracting Party, shall be accorded by the latter Contracting Party, as regards restitution, indemnification, compensation or Contracting Party grants to investors of any third State. Any payment made under this article shall be adequate, effective and freely transferable without unnecessary delay.

Article 5. Nationalization and Expropriation

The nationalization, expropriation or any other measure of similar characteristics or effects that may be applied by the authorities of one Contracting Party against the investments in its own territory of investors of the other Contracting Party must be applied exclusively for reasons of public interest pursuant to the law, and shall in no case be discriminatory. The Contracting Party adopting such measures shall pay to the investors or his legal beneficiary an adequate indemnity in convertible currency according to the prevailing market value currency without unjustified delay.

Article 6. Transfers

1- With regard to the investments made in its territory, each Contracting Party shall grant to investors of the other Contracting Party the right to freely transfer in accordance with its laws, the income deriving therefrom and other payments

related thereto, including particularly, but not exclusively, the following:

- A. Investment returns, as defined, in Article 1;
 - B. The indemnities provided for under Articles 4 and 5;
 - C. The proceeds of the sale or liquidation, in full or partial, of an investment;
 - D. The salaries, wages and other compensation received by the nationals of one Contracting Party who have obtained in the territory of the other Contracting Party the corresponding work permits in relation to an investment, in accordance with existing laws and regulations.
- 2- Transfers referred in paragraph 1 shall be effected without delay, in freely convertible currencies.

Article 7. Subrogation

In case one Contracting Party has granted any guarantee against noncommercial risks in respect of an investment by its investor in the territory of the other Contracting Party, and has made payments to such investors under the said guarantee, the other Contracting Party shall recognize the transfer of the right of such investor to the first mentioned Contracting Party, and the subrogation of that Contracting Party shall not exceed the original rights of such investors.

Article 8. Settlement of Dispute between an Investor and the Contracting Party

1- Any dispute which may arise between a Contracting Party and an investor of other Contracting Party, shall be notified in writing, including detailed information, by the investor to the host Party of the investment, and shall, if possible, be settled amicably.

2- If the dispute cannot be settled in this way within six months from the date of the written notification mentioned in paragraph (1), the Investor in question shall submit upon request of the Investor (his choice will be final) either to:

- A. The competent courts of the Contracting Party in whose territory the investment was made;
- B. The International Center for the Settlement of Investment Disputes (ICSID) created by the Convention on the Settlement of Investment Disputes between States and Nationals of the other States opened for signature in Washington D.C on 18 March 1965, once both Contracting Parties herein become member states thereof;
- C. Regional Center for International Commercial Arbitration in Cairo; and
- D. The Ad-hoc Court of arbitration established under the Arbitration Rules of Procedure of the United Nations Commission for International Trade Law.

3- The dispute shall be settled in accordance with:

- a) The provisions of this agreement;
- b) The National law of the Contracting Party in whose territory the investment was made; and
- c) Principles of International Law.

4- The decisions shall be final and binding on the Parties to the dispute. Each Contracting Party shall execute them in accordance with its laws.

Article 9. Settlement of Disputes between the Contracting Parties

1- Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall be settled through negotiations.

2- If the dispute cannot be so settled within six months from the start of the negotiations, it shall upon the request of either Contracting Party, be submitted to an arbitration tribunal, in accordance with the provisions of this article.

3- The Arbitration Tribunal shall be constituted in the following way; Each Contracting Party shall appoint an arbitrator and these two arbitrators shall then select a national of a third State who shall act as chairman, the arbitrators shall be appointed within three months and the chairman within five months from the date on which either of the two Contracting Parties informed the other Contracting Party of its intention to submit the dispute to arbitration.

4- If, within the period 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 is too 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 Arbitration Tribunal shall issue its decision on the basis of the provisions contained in this Agreement and in other agreements in force between the Contracting Parties, as well as of the principles of International Law.

6- The Arbitration Tribunal shall determine its own procedure and shall reach its decision by a majority of votes. Such decision shall be final and binding on both Contracting Parties. Each Contracting party shall bear the cost of its own arbitrator and its representative in the arbitral proceedings. The cost of the Chairman and the remaining costs shall be borne in equal parts by both Contracting Parties.

Article 10. Scope of the Agreement

This agreement shall apply to all investments, whether made before or after the date of entry into force, or this agreement, but shall not apply to any dispute, which arose before entry into force of this agreement.

Article 11. Entry Into Force

This Agreement shall enter into force on the date of exchanging the last notification of the completion of the constitutional procedures between the Contracting Parties.

Article 12. Duration and Termination

1- This Agreement shall remain in force for a period of ten years, and shall continue in force there after for another similar period, or periods, unless terminated in writing by either Contracting Party upon giving twelve months notice of its intention to terminate, which notice will be communicated through diplomatic channels.

2- The terms of this agreement may be amended by the mutual agreement of both Parties, and any such amendment shall be effected by exchange of notes between them through diplomatic channels. The date of entry into force shall be the date of last notification.

In witness whereof, the under signed, duly authorised thereto by their respective Governments, have signed this Agreement.

Done at Lusaka, on 28th of April, 2000, in two originals in Arabic and English languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT

FOR THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA