

# **AGREEMENT BETWEEN THE GOVERNMENT OF THE LEBANESE REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF FINLAND ON THE PROMOTION AND MUTUAL PROTECTION OF INVESTMENTS**

The Government of the Lebanese Republic and the Government of the Republic of Finland, hereinafter referred to as the "Contracting Parties",

Desiring to encourage economic cooperation to the mutual benefit of both Contracting Parties,

Intending to create and maintain favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party,

Recognizing that the promotion and protection of such investments are conducive to the stimulation of business initiative,

Have agreed as follows:

## **Article 1. Definitions**

For the purpose of this Agreement:

1- The term "investor" means with regard to either Contracting Party:

- a) Natural persons who are nationals of that Contracting Party in accordance with its legislation;
- b) Legal entities, such as companies, corporations, business associations and other organizations, including holding or offshore companies registered in either of the Contracting Parties, which are constituted or otherwise duly organized under the law of that Contracting Party and have their seat in the territory of the same Contracting Party.

2- The term "investment" means every kind of asset, established or acquired by an investor of one Contracting Party in the territory of the other Contracting Party (host Party) in accordance with the laws and regulations of the latter Contracting Party, which includes, inter alia:

- a) Movable and immovable property as well as any other rights in rem or in personam, such as leases, mortgages, liens, pledges, and usufructs;
- b) Shares in companies and any other kind of participation in companies;
- c) Intellectual and industrial property rights, such as copyrights, patents, industrial designs or models, trade or service marks, trade names, technical processes, know-how and goodwill, as well as other similar rights;
- d) Business concessions under public law, including concessions to search, extract or exploit natural resources as well as all other rights given by law, by contract or by decision of the authorities in accordance with the law.

3- Any alteration in the form in which assets are invested or reinvested shall not affect their character as investment.

4- The term "returns" means amounts yielded by an investment and in particular, though not exclusively, includes profits, dividends, interest, capital gains, royalties, or other income, irrespective of the form in which the return is paid.

5- The term "territory" means the land and sea area of the Contracting Party including the territorial sea and maritime zone over which the Contracting Party exercises, in accordance with international law, sovereign rights and jurisdiction.

## **Article 2. Promotion and Protection of Investments**

1- Each Contracting Party shall in its territory promote investments by investors of the other Contracting Party and admit

such investments in accordance with its laws and regulations.

2- The host Party shall, within the framework of its legislation, give a sympathetic consideration to applications for necessary permits in connection with the investments in its territory, including authorizations for engaging top managerial and technical personnel of their choice, regardless of nationality.

3- Each Contracting Party shall give full protection and security to investments made in accordance with its laws and regulations by investors of the other Contracting Party and shall not impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment, extension, sale or liquidation of such investments.

### **Article 3. Treatment of Investments**

1- The host Party shall ensure fair and equitable treatment, within its territory, to investments made by investors of the other Contracting Party. This treatment shall not be less favourable than that granted by the host Party to the investments made within its territory by its own investors or by investors of any third state, whichever is more favourable.

2- Each Contracting Party shall in its territory accord to investors of the other Contracting Party, as regards the management, maintenance, use, enjoyment or disposal of their investments, fair and equitable treatment which in no case shall be less favourable than that which it accords to its own investors or to investors of any third state, whichever is more favourable to the investor.

### **Article 4. Exceptions**

The provisions of this Agreement relative to the granting of treatment no less favourable than that accorded to investors of each Contracting Party or of any third state shall not be construed so as to oblige the host Party to extend to investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from:

- a) Membership of any regional free trade area or customs union of which one of the Contracting Parties is or may become a party; or
- b) Any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation; or
- c) A multilateral convention or treaty related to investments, of which one of the Contracting Parties is or may become a party; or
- d) Investments in Lebanon by Arab investors including real estate and other real rights.

### **Article 5. Expropriation**

1- Neither of the Contracting Parties shall take, either directly or indirectly, measures of expropriation, nationalization or any other measures having the same effect on investments of investors of the other Contracting Party, unless the measures are taken in the public interest as established by law, on a non-discriminatory basis, and under due process of law, and provided that provisions are made for effective and adequate compensation, according to the national law without any kind of discrimination. Such compensation shall be equivalent to the fair market value of the expropriated investment immediately before the date on which the actual or pending expropriation, nationalization or comparable measure has become publicly known. The compensation shall be paid without delay and shall include interest at London Inter Bank Offered Rate (LIBOR) from the date of expropriation until the date of payment; it shall be effectively realizable and freely transferable. Provisions shall have been made in an appropriate manner at or prior to the time of expropriation, nationalization or comparable measure for the determination and payment of such compensation. The legality of any such expropriation, nationalization or comparable measure and the amount of compensation shall be subject to review by due process of law.

2- The provisions of paragraph 1 of this Article shall also apply where a Contracting Party expropriates assets of a company which is constituted under the laws in force in its own territory and in which investors of the other Contracting Party own shares.

### **Article 6. Compensation for Losses**

Investors of either Contracting Party whose investments suffer losses in the territory of the host Party owing to war or other armed conflict, revolution, a state of national emergency, or revolt, shall be accorded treatment, as regards restitution,

indemnification, or other compensation no less favourable than that which the host Party accords to its own investors or to investors of any third State whichever is more favourable for the investor. Such payments shall be freely transferable.

## **Article 7. Free Transfer**

1- The host Party shall with respect to investments in its territory by investors of the other Contracting Party secure the free transfer into and out of its territory of payments relating to these investments, particularly of:

- a) The initial capital and any additional capital for the maintenance and development of an investment;
- b) Interests, dividends, profits and other returns;
- c) Amortization of principal and accrued interest payment;
- d) Unspent earnings and other remuneration of foreign personnel engaged from abroad in connection with an investment;
- e) Proceeds from the sale or liquidation of all or any part of an investment;
- f) Payments arising out of the settlement of dispute; and
- g) Payments of compensation pursuant to Articles 5 and 6.

2- The transfers under this Article shall be effected without delay and in a freely convertible currency.

3- Transfers shall be made at the prevailing market rate of exchange on the date of transfer, with respect to spot transactions in the currency to be transferred.

## **Article 8. Subrogation**

If a Contracting Party or its designated agency makes a payment to its own investors under a guarantee against non-commercial risks it has accorded in respect of an investment in the territory of the other Contracting Party, the host Party shall, without prejudice to the rights of the former Contracting Party under Article 10 of this Agreement, recognize the assignment, whether under a law or pursuant to a legal transaction to the former Contracting Party of all the rights and claims resulting from such an investment, and shall recognize that the former Contracting Party or its designated agency is entitled to exercise such rights and enforce such claims to the same extent as the original investor.

## **Article 9. Disputes between an Investor and the Host Party**

1- Any dispute which may arise between an investor of one Contracting Party and the host Party relating to an investment in the territory of the host Party, should be settled, as far as possible, amicably.

2- If these efforts do not result in a solution within five months from the date of written request for settlement, the investor may submit the dispute, at his choice, for settlement to:

- a) The competent court of the host Party in the territory of which the investment has been made; or
- b) The International Center for Settlement of Investment Disputes (ICSID) provided for by the Convention on the Settlement of Investment Disputes between States and Nationals of the other States, opened for signature at Washington, on March 18, 1965, in case both Contracting Parties are members of this Convention; or
- c) An ad hoc arbitral tribunal which, unless otherwise agreed upon by the parties to the dispute, shall be established under the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL).

3- The choice made as per subparagraphs a, b, and c herein above is final.

4- The arbitral tribunal shall decide the dispute in accordance with the provisions of this Agreement and the applicable rules and principles of international law. The awards of arbitration shall be final and binding on both parties to the dispute. The host Party shall carry out without delay any such award which shall be enforced in accordance with national law.

5- The Contracting Party which is a party to the dispute shall, at no time whatsoever during the procedures involving investment disputes, assert as a defence its immunity or the fact that the investor has received compensation under an insurance contract covering the whole or part of the incurred damage or loss.

## **Article 10. Settlement of Disputes between Contracting Parties**

- 1- Disputes between Contracting Parties regarding the interpretation or application of this Agreement shall be settled through negotiations.
- 2- If the Contracting Parties cannot reach an agreement within six months from the request for negotiations, the dispute shall, upon request of either Contracting Party, be submitted to an arbitral tribunal of three members. Each Contracting Party shall appoint one arbitrator. These two arbitrators shall then agree upon a national of a third State, to be appointed by the Contracting Parties to be their Chairman.
- 3- If one of the Contracting Parties has not appointed its arbitrator and has not followed the invitation of the other Contracting Party to make that appointment within two months, the arbitrator shall be appointed upon the request of that Contracting Party by the President of the International Court of Justice.
- 4- If both arbitrators cannot reach an agreement about the choice of the chairman within two months after their appointment, the chairman shall be appointed upon the request of either Contracting Party by the President of the International Court of Justice.
- 5- If, in the cases specified under paragraphs 3 and 4 of this Article, the President of the International Court of Justice is prevented from carrying out the said function or if he or she is a citizen of either Contracting Party, the appointment shall be made by the Vice-President, and if the latter is prevented from carrying out the said function or if he or she is a citizen of either Contracting Party, the appointment shall be made by the most senior Judge of the Court who is not citizen of either Contracting Party.
- 6- The tribunal shall reach its decision by a majority of votes.
- 7- The tribunal shall issue its decision on the basis of respect for the law, the provisions of this Agreement, as well as of the universally accepted principles of international law.
- 8- Subject to other provisions agreed upon by the Contracting Parties concerning the case, the arbitration tribunal shall determine its own procedure.
- 9- Each Contracting Party shall bear the cost of the arbitrator it has appointed 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 arbitration tribunal may make a different decision concerning costs.
- 10- The decisions of the tribunal are final and binding on both Contracting Parties.

## **Article 11. Other Obligations**

If the legislation of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to this Agreement contain a regulation, whether general or specific, entitling investments by investors of the other Contracting Party to treatment more favourable than is provided for by this Agreement, such legislation shall, to the extent that it is more favourable, prevail over this Agreement.

## **Article 12. Application of the Agreement**

The present Agreement shall apply to investments in the territory of the host Party made in accordance with its laws and regulations by investors of the other Contracting Party prior to or after the entry into force of this Agreement. However, the Agreement shall not apply to disputes that have arisen before its entry into force.

## **Article 13. Relations between Governments**

This Agreement shall be in force irrespective of whether or not diplomatic or consular relations exist between the Contracting Parties.

## **Article 14. Final Provisions**

- 1- This Agreement shall enter into force on the thirtieth day after the day 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.
- 2- This Agreement shall remain in force for a period of fifteen years. Thereafter, it shall remain in force for an unlimited

period unless denounced in writing by either Contracting Party twelve months in advance.

3- In case of official notice as to the termination of the present Agreement, the provisions of Articles 1 to 12 shall continue to be effective for a further period of fifteen years for investments made before official notice was given.

IN WITNESS THEREOF the Undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done at ....., on ..... in two originals, in Arabic, Finnish, and English languages, each text being equally authentic. In case of difference of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF

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THE LEBANESE REPUBLIC THE REPUBLIC OF FINLAND