

AGREEMENT BETWEEN THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Kingdom of Thailand and the Government of the Arab Republic of Egypt, hereinafter referred to as "Contracting Parties".

Desiring to create favourable conditions for greater economic cooperation between them and, in particular, for the investment of capital by nationals and companies of one Contracting Party in the territory of the other Contracting Party.

Recognising that the encouragement of such investment of capital and the reciprocal protection of investments under international agreement will be conducive to the stimulation of individual business initiative and will increase prosperity in both states;-

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "Investments" means:

All kinds of invested money and assets which carried out by investors of any of either Contracting Party in the territory of the other Contracting Party according to the prevailing laws and regulations in this country. Also the investment include in particular, but not exclusively: a) Movable and immovable property as well as any other property rights, such as mortgages, pledges, debt guarantees, usufruct and similar rights,

b) Shares, stocks, debentures of companies wherever incorporated or interests of such companies in the territory of either Contracting Party,

c) Claims to money or to any performance under contract have financial value associated with the investment,

d) Intellectual and industrial property rights and goodwill,

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

The term "Investor" means: a) Any natural person possesses the nationality of either Contracting Party in accordance with its laws and invests in the territory of the other Contracting Party,

b) Any juridical person including companies, corporation and other business associations incorporated or constituted under the law in force in the territory of either Contracting Party whether or not with limited liability and whether or not for pecuniary profit;

The term "Returns" means any amounts yielded by an investment and, in particular, though not exclusively, include profit, interest, capital gains, dividends, royalties or fees; The term "Territory" means territory over which Contracting Party has sovereignty and/or jurisdiction; and The term "Expropriation" also includes acts of sovereign power which are equal to expropriation, as well as measures of nationalization.

Article 2. Promotion of Investment

1. Each Contracting Party shall accept, encourage and provide legal protection to the investments by investors of the other Contracting Party in its territory. Such investments must be in accordance with its prevailing laws and regulations and

general economic policy.

2. The benefits of this Agreement shall apply only in cases where the investment of capital by the investors of one Contracting Party in the territory" of the other Contracting Party has been specifically approved in writing by the competent authority of the latter Contracting Party.

3. Investors of either Contracting Party shall be free to apply for such approval in respect of any investment of capital whether made before or after the entry into force of this Agreement.

Article 3. Protection of Investment

1. Where investments of an investor of one Contracting Party in the territory of the other Contracting Party suffer loss owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot in the territory of the other Contracting Party, the investor concerned shall be accorded treatment as regards restitution, indemnification, compensation or other settlement, not less favourable than would be accorded in the same circumstances to an investor of the other Contracting Party or to an investor of any third state.

2. Without prejudice to the foregoing provisions of this article, the investor of one Contracting Party shall, in respect of any matter dealt with therein, be accorded in the territory of the other Contracting Party treatment not less favourable than that accorded to the investors of the latter Contracting Party or of any third state.

Article 4. Treatment of Investment

1. Investments of investors of one Contracting Party in the territory of the other Contracting Party and also the returns therefrom shall receive treatment which is fair and equitable and not less favourable than that accorded in respect of the investments and returns of the investors of the latter Contracting Party or of any third state whichever is more favourable to the investors.

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 investments, treatment which is fair and equitable and not less favourable than that which it accords to its own investors or to investors of any third state whichever is more favourable to the investors.

Article 5. Nationalization or Expropriation

1.

(a) Investments of investors of either Contracting Party, shall not be subject to any measures limiting the right of ownership, control, or enjoyment of the investments whether permanent or temporary except for specific provisions of the laws in force or an order issued by a competent court.

(b) Investments of investors of either Contracting Party or any of its natural or juridical persons shall not be directly or indirectly nationalized, expropriated, or subjected to measures having effect equivalent to nationalization or expropriation, in the territory of either Contracting Party except for a public purpose, and against payment of compensation. Such compensation shall be adequate, effectively realisable, made without delay and freely transferable in freely convertible currencies. Such measures are taken on a non-discriminatory basis and subject to review by due process of law.

(c) Such compensation shall amount to the market value of the investment expropriated on the day the measure was taken.

2. Where a Contracting Party expropriates asset of an investor which is incorporated or constituted under the law in force in any part of its territory and in which an investor of the other Contracting Party owns shares, it shall ensure that the provisions of paragraph 1 of this Article are applied to the extent necessary to guarantee compensation as specified therein to such an investor of the other Contracting Party who is the owner of those shares.

Article 6. Transfers of Capital and Returns

Each Contracting Party shall guarantee to the investors of the other Contracting Party the free transfer of the capital of and the returns from, their investments, as well as the payments of compensations under Articles 3 and 5 without undue delay in freely convertible currencies at the market rate of exchange prevailing on the date of the transfer.

Article 7. Exceptions

The provisions of this Agreement relating to the grant of treatment not less favourable than that accorded to the investors of either Contracting Party or of any third state shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege which may be extended by the former Contracting Party by virtue of:

(a) The formation or extension of a customs union or a free trade area or a common external tariff area or a monetary union or a regional association for economic cooperation; or

(b) The adoption of an agreement designed to lead to the formation or extension of such a union or area within a reasonable length of time; or

(c) Any arrangement with a third country or countries in the same geographical region designed to promote regional cooperation in the economic, social, labour, industrial or monetary fields within the framework of specific projects; or

(d) The grant to a particular person or company of the status of a "promoted person" under the law of Thailand on the promotion of investment; or

(e) Any international agreement or arrangement, or any domestic legislation, relating wholly or mainly to taxation.

Article 8. Subrogation

1. In case one Contracting Party or its designated agencies has granted any guarantee against non-commercial risks in respect of an investment by its investor in the territory of the other Contracting Party and has made payments to such investor 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 in this party shall not exceed the original rights of such investor.

2. The provisions of Article 6 of this Agreement shall be applied on the transfers to be paid to the Contracting Party by virtue of such subrogation.

Article 9. Settlement of Disputes between the Contracting Parties

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, if possible, be settled through consultation or negotiation.

2. If the dispute cannot thus be settled within six months following the date on which the negotiations have been engaged, it shall at the request of either Contracting Party be submitted to an Arbitral Tribunal.

3. The Arbitral Tribunal shall be constituted in the following way within two months from the receipt of the request for arbitration, each Contracting Party shall appoint one member of the Arbitral Tribunal. The two members shall then select a national of a third state who shall act as chairman (hereinafter referred to as the chairman). The chairman shall be appointed within three 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 relevant 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 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.

(a) The Arbitral Tribunal shall reach its decision by a majority of votes. Such decision shall be binding on both Parties.

(b) Subject to the power of the Arbitral Tribunal to give a different ruling concerning costs, the cost of its own member and of its representation in the arbitral proceedings shall be borne by each Contracting Party and the cost of the chairman and the remaining costs shall be borne in equal parts by the two Contracting Parties.

(c) In all respects other than those specified in subparagraphs (a) and (b) of this paragraph, the arbitral tribunal shall determine its own procedure.

Article 10. Settlement of Dispute between an Investor and a Contracting Party

1. Any dispute which may arise between a Contracting Party and an investor of the other Contracting Party shall, if possible, be settled amicably.

2. If the dispute cannot thus be settled within six months following the date on which the dispute has been raised by either Party it may be submitted 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 Centre for the Settlement of Investment Disputes (ICSID) created by the Convention on the Settlement of Investment Disputes between States and Nationals of other States opened for signature in Washington D.C. on 18 March 1965, once both Contracting Parties herein become member states thereof.

Article 11. Entry Into Force, Duration and Termination

1. This Agreement shall enter into force on the date of exchanging the written notification by both Contracting Parties indicating that the constitutional arrangements had already been completed.

2. This Agreement shall remain in force for a period of ten years from the above mentioned date and automatically remain in force annually, unless one of the Contracting Parties notifies the other Contracting Party in writing of its intention to terminate the Agreement, at least six months prior to the expiration of that period.

3. In respect to investments made prior to the date of termination of the present Agreement, the provisions of Articles 1 to 10 shall remain effective for a further period of ten years from the date of termination of the present Agreement.

In witness whereof, the undersigned, duly authorized thereto by their respective Governments, have signed this agreement.

Done in on this day of in two originals in Thai, Arabic and English languages, all texts being equally authentic.

In case of any divergency of interpretation the English text shall prevail.

FOR THE GOVERNMENT OF THE KINGDOM OF THAILAND

FOR THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT