Agreement Between The Republic Of Turkey And The People's Republic Of Bangladesh Concerning The Reciprocal Encouragemenf And Protection Of Investments

The Republic of Turkey and the People's Republic of Bangladesh (each a "Party")

Desiring to promote greater economic cooperation between them particularly with respect to investment by nationals and companies of one Party in the territory of the other Party.

Recognizing that agreement upon the treatment to be accorded such investment will stimulate the flow of capital and technology and the economic developments of the Parties,

Agreeing that fair and equitable treatment of investment is desirable in order to maintain a stable framework for investment and maximum effective utilization of economic resources, and

Having resolved to conclude an agreement concerning the ecouragement and reciprocal protection of investments,

Have agreed as follows:

Article I.

1. For the purpose of this agreement

(a) "company" means any kind of juridical entity, including any corporation, company, association or other organization that is duly incorporated, constituted, or otherwise duly organized for pecuniary gain, privately or governmentally owned, or organized with limited or unlimited liability.

(b) "Company of a Party" means a company duly incorporated, constituted, or otherwise duly organized under the applicable laws and regulations of a Party in which (i) Natural persons who are nationals of such Party, or

(ii) Such Party or its agencies or instrumentalities having a substantial interest as determined by such Party. The juridical status of a company of a Party shall be recognized by the other Party.

(c) "Investment" means every kind of investment in the territory of one Party owned or controlled, directly or indirectly, by nationals or companies of the other Party, including assets, equity, debt, claims, and service and investment contracts; and includes: (i) Tangible and intangible property including rights, such as mortgages liens and pledges;

(ii) A company or shares of stock or other interests in a company or interests in the assets thereof;

(iii) A claim to money or a claim to performance having economic value and associated with an investment;

(iv) Industrial property rights, including rights with respect to copyrights, patents, trademark, trade names, industrial designs, trade secrets and know-how, and goodwill;

(v) Any right conferred by law or contract and any licences and permits pursuant to law; and

(vi) Re-investment of returns, and of principal and interest payments arising under loan agreements.

(d) "own or control" means ownership or control that is direct or indirect, including ownership or control exercised through subsidiaries or affiliates, wherever located.

(e) "national" of a Party means a natural person who is a national of a Party under its applicable law.

(f) "return" means an amount derived from or associated with an investment, including profit, dividend, capital gain, royalty payment, management, technical assistance or other fee and payment in kind.

(g) "associated activities" include the organization, control, operation, maintenance and disposition of companies, branches agencies, offices, factories, or other facilities for the conduct of the business; the making, performance and enforcement of contracts; the acquisition, use, protection and disposition of property of all kinds, including funds, the purchase and issuance of equity shares, and the purchase of foreign exchange for imports.

2. Each Party reserves the rights to deny to any of its own companies or to a company of the other Party the advantages of agreement if nationals of any third country control such company, provided that, whenever extended to a company of the other Party for this reason, it shall promptly consult with the other Party to seek a mutually satisfactory resoultion of the matter. This right shall not apply with respect to recognition of juridical status and access to courts.

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

Article II.

1. Each Party shall permit in its territory investments and activities associated therewith, on a basis no less favourable than that accorded in like situations to investments of nationals or companies of any third country, and within the framework of its laws and regulations, no less favourable than that accorded in like situations to investments of its own nationals and companies.

2. Each Party shall accord to these investments, once established, and associated activities, treatment no less favourable than that accorded in like situations to investments of its nationals and companies or to investments of nationals and companies of any third country, whichever is the most favourable.

3. Subject to the laws relating to the entry and sojourn of aliens, nationals of either Party shall be permitted to enter and to remain in the territory of the other Party for the purpose of establishing, developing, administering or advising on the operation of an investment to which they, or a company of the first Party that employs them, have commited or are in the process of commiting a substantial amount of capital or other resources.

4. Companies which are legally constituted under the applicable laws or regulations of one Party, and which are investments of nationals or companies of other Party, shall be permitted to engage top managerial personnel of their choice, regardless of nationality.

5. Each Party shall make public all laws, regulations, administrative practices and procedures that pertain to or effect investments.

Article III.

1. Investments shall not be expropriated or nationalized either directly or indirectly through measures tantamount to expropriation or nationalization ("expropriation") except for a public purpose, in a non-discriminatory manner, upon payment of prompt, adequate and effective compensation, and in accordance with due process of law and the general principles of treatment provided for in Article II (2).

2. Compensation shall be equivalent to the fair market value of the expropriated investment at the time the expropriatory action was taken or became known. Compensation shall be paid without delay, bu fully realizable, and be freely transferable.

3. Nationals or companies of either Party whose investments suffer losses in the territory of the other Party owing to war, insurrection, civil disturbance or other similar events shall be accorded treatment by such other Party not less favourable than that accorded to its own nationals or companies or to nationals or companies of any third country, whichever is the most favourable treatment, as regards any measures it adopts in relation to such losses.

Article IV.

1. Each Party shall permit all the transfer related to an investment to be made freely and without unreasonable delay into and out of its territory. Such transfers include: (a) returns; (b) compensation pursuant to Article III: (c) payments arising out of an investment dispute; (d) proceeds from the sale of liquidation of all or any part of an investment.

2. Transfers shall be made in a freely convertible currency at the prevailing market rate of exchange on the date of transfer with respect to spot transactions in the currency or currencies to be transferred.

3. Notwithstanding the provisions of paragraphs 1 and 2, either Party may maintain laws and regulations (a) prescribing procedures to be followed concerning transfers permitted by this Article, provided that such procedures are completed

without delay by the Party concerned and do not impair the substance of the rights set forth in paragraphs 1 and 2 of this Article; (b) requiring reports of currency transfer; and (c) imposing income taxes by such means as a witholding tax applicable to dividends or other transfers. Furthermore, either Party may protect the rights of creditors or ensure the satisfaction of judgement in adjudicatory proceeding, through the equitable and non-discriminatory application of its law.

Article V.

The Parties agree to consult promptly, on the request of either to resolve any disputes in connection wich the Agreement or to discuss any matter relating to the interpretation or application of the Agreement.

Article VI.

1. For the purpose of this Article, an investment dispute is defined as a dispute involving (a) the interprepartation or application of any investment authorization granted by a Party's foreign investment authority to such national or company; or (b) an alleged breach of any right conferred or created by this agreement with respect to an investment.

2. In the event of an investment dispute between a Party and a national or company of the other Party, the Parties to the dispute shall initially seek to resolve the dispute by consultations or negotiations in good faith. If such consultations or negotiations are unsuccessful, the dispute shall be submitted for settlement in accordance with any previously agreed applicable dispute settlement procedures.

3.

(a) The national or company concerned may choose to consent in writing to the submission of the dispute to the International Centre for Settlement of Investment Disputes ("Centre") for settlement by arbitration, at any time after one year from the date upon which the dispute arose.

(b) Each Party hereby consents to the submission of an investment dispute to the Centre for Settlement by arbitration.

(c) Arbitration of such disputes shall be done in accordance with the provisions of the Convention on the Settlement of Investment Disputes between States and Nationals of other States and the "Arbitration Rules" of the Centre.

4. Any dispute settlement procedures regarding expropriation and specified in the investment agreement shall remain binding and shall be enforceable in accordance with the terms of the investment agreement, relevant provisions of domestic laws, and applicable international agreements regarding enforcement of arbitral awards.

Article VII.

1. The Parties shall seek in good faith and a spirit of cooperation a rapid and equitable solution to any dispute between them concerning the interpretation or application of this agreement. In this regard, the Parties agree to engage in direct and meaningful negotiations to arrive at such solutions. If such negotiations are unsuccessful, the dispute may be submitted, upon the request of either Party, to an arbitral tribunal for binding decision in accordance with the applicable rules of international law.

2. Within two months of receipt of a request, each Party shall appoint an arbitrator. The two arbitrators shall select a third arbitrator as Chairman, who is a national of a third State. In the event either Party fails to appoint an arbitrator within the time, the other Party may request the President of the International Court of Justice to make the appointment.

3. The tribunal shall have three months from the date of the selection of the Chairman in which to agree upon rules of procedure consistent with the other provisions of this agreement. In the absence of such agreement, the tribunal shall request the President of the International Court of Justice to designate rules of procedure, taking into account generally recognized rules of international arbitral procedure.

4. Upon a determination that the Party requesting arbitration has attempted to resolve the dispute through direct and meaningful negotiation, the tribunal shall proceed to arbitrate the merits of this dispute.

5. Unlees otherwise agreed, all submissions shall be made and all hearings shall be completed within eight months of the date of selection of the third arbitrator, and the tribunal shall render its decision within two months of the date of the final submission or the date of the closing of the hearings, whichever is later.

6. Expenses incurred by the Chairman, the other arbitrators, and other costs of the proceedings shall be paid for equally by the Parties. The tribunal may, however, at its discretion, direct that a higher proportion of the costs be paid by one of the

Parties.

7. This article shall not be applicable to a dispute which has been submitted to and is still before the Centre pursuant to Article VI.

Article VIII.

The provisions of Article VI and VII shall not apply to a dispute arising (a) under the export credits, guarentee or insurance programmes; (b) under the export credit, guarantee or insurance arrangements pursuant to which the Parties have agreed to other means of settling disputes.

Article IX.

This agreement shall not conflict with:

(a) Laws and regulations administrative practices or procedures; or administrative or adjudicatory decisions of either Party.

(b) International legal obligations; or

(c) Obligations assumed by either Party, including those contained in an investment agreement or an investment authorization, that entitled investments or associated activities to treatment more favourable than that accorded by this agreement in like situations.

Article X.

1. This agreement shall not preclude the application by either Party of measures necessary for the maintenance of public order and morals, the fulfilment of its obligations with respect to the maintenance or restoration of internatinoal peace or security, or the protection of its own essential security interests.

2. This agreement shall not preclude either Party from prescribing special formalities in connection with the establishment of investments, but such formalities shall not impair the substance of any of the rights set forth in this agreement.

Article XI.

With respect to its tax policies, each Party should strive to accord fairness and equity in the agreement of investment of nationals and companies of the other Party.

Article XII.

1. This agreement shall enter into force thirty days after the date on which the exchange of instruments of ratification has been completed. It shall remain in force for a period of ten years and shall continue in force unless terminated in accordance with paragraph 2 of this Article. It shall apply to investments existing at the time of entry into force as well as to investments made or acquired thereafter.

2. Either Party may, by giving one year's written notice to the other Party, terminate this Agreement at the end of the initial ten year period or at any time thereafter.

3. This Agreement may be amended by written agreement between the Parties. Any amendment shall enter into force when each Party has noified the other that it has completed all international requirements for entry into force of such amendment.

4. With respect to investments made or acquired prior to the date of termination of this Agreement and to which this Agreement otherwise applies, the provisions of all of the other Articles of this Agreement shall thereafter continue to obey effective for a further period of ten years from such date of termination.

5. This Agreement shall apply to political subdivisions of the Parties.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Agreement.

DONE in duplicate at Ankara day of 12th November 1987 in the Engilsh, Turkish and Bengali on the languages all texts being

equally authentic. In case of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF TURKEY

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH