AGREEMENT BETWEEN THE SOCIALIST REPUBLIC OF ROMANIA AND THE ARAB REPUBLIC OF EGYPT ON THE PROMOTION AND MUTUAL GUARANTEE OF CAPITAL INVESTMENTS

The Socialist Republic of Romania and the Arab Republic of Egypt,

Desiring to develop the existing economic co-operation relations between the two countries,

Intending to create favourable conditions for capital investments to be made by investors from one Contracting Party on the territory of the other Contracting Party,

Awar[e] that the guarantee of capital investments, in accordance with this Agreement, is stimulating the initiative in this field,

Have agreed as follows:

Article 1.

(1) Each Contracting Party shall promote on its territory the capital investments of the investors of the other Contracting Party.

(2) Capital investments, allowed in accordance with the respective laws and regulations of the Contracting Party on whose territory the investments are made, shall enjoy the protection and guarantees laid down in the present Agreement.

Article 2.

Each Contracting Party shall not grant, on its territory, the capital investments or investors of the other Contracting Party a less favourable treatment than the treatment it grants to the investments and investors of third countries with whom similar agreements have been concluded.

Article 3.

(1) Capital investments made by investors of a Contracting Party on the territory of the other Contracting Party cannot be expropriated, except for public utility and against compensation. The compensation must be equal to the value of the investment at the time of the expropriation, effectively realizable, freely transferable and paid without delay. An adequate procedure for determining the amount and manner of payment of the compensation shall be established at the time of the expropriation at the latest. The amount of compensation may be re-evaluated by the Court having jurisdiction in the country where the investments have been made, at the request of the Concerned Party.

If a dispute between an investor and the Contracting Party on whose territory the investments have been made, regarding the amount of compensation, still exists after the final award of the national court, either Party shall be entitled to refer the dispute, for conciliation and arbitration, to the International Centre for Settlement of Investment Disputes, in accordance with procedure[s] laid down in the Convention concluded in Washington on March 18, 1965.

(2) Investors of a Contracting Party, whose investments have undergone losses as a consequence of a war or clash of armed forces, a revolution, a state of national emergency or a revolt occurring on the territory of the other Contracting Party, shall receive from the latter, the necessary compensations which should cover the incurred losses. The amount of such compensation shall be freely transferable.

(3) Regarding the matters regulated by the present article, paragraphs 1 and 2, the investors of a Contracting Party shall enjoy the most-favoured-nation treatment on the territory of the other Contracting Party.

Article 4.

Each Contracting Party guarantees to the investors of the other Contracting Party free transfer of the net profits and, in the event of liquidation, the proceeds of liquidation.

Article 5.

Should one of the Contracting Parties make payments to its own investors, in order to cover losses incurred in making investments on the territory of the other Contracting Party, as a consequence of the causes laid down in Art. 3, paragraphs 1 and 2, or of the restrictive measures contrary to the provisions laid down in Art. 4, the other Contracting Party, without prejudice to the rights of the first Contracting Party deriving from Art. 10, shall recognize the transfer to the first Contracting Party of all the rights and claims of those investors as shown by the documents in accordance with which the investments were effected. In such a case, the first Contracting Party shall be authorized, as a consequence of the subrogation, to exert the corresponding rights and claims to the same extent as its predecessor. Regarding the transfer of payments to be effected to the concerned Contracting Party in pursuance of the subrogation, the provisions of paragraphs 1 and 2 of Article 3, and of Art. 4, are applicable mutatis mutandis.

Article 6.

The transfers in accordance with Article 3, paragraphs 1 and 2, Article 4 and Article 5 shall be effected in the same convertible currency in which the investments have been made, without delay, at the official rate of exchange valid on the date of payment.

Article 7.

(1) If future agreements between the two Contracting Parties resulted in granting the capital investments of either Party more favourable conditions than the investments made under the present Agreement, these investments shall benefit from such conditions.

(2) Each Contracting Party shall comply with any other obligation which it undertakes concerning the capital investments made on its territory by investors of the other Contracting Party.

Article 8.

(1) "Capital investments" shall mean any form of assets contributed by investors of either Contracting Party to the investments, according to the respective laws and regulations of the Contracting Party on whose territory the investments are made and to the documents concerning the approval of the investments.

(2) "Net profit" shall mean the sums paid as profit share of the capital investments.

(3) "Investors" are understood to mean:

a) As regards the Socialist Republic of Romania: the Romanian economic units having juridical personality and which, according to the Romanian law, are entitled to carry out foreign trade and international economic cooperation activities.

b) As regards the Arab Republic of Egypt: all juridical and natural persons having the Egyptian nationality.

Article 9.

Investments made by investors of one of the Contracting Parties on the territory of the other Contracting Party before the coming into force of the present Agreement, shall be regulated by the present Agreement.

Article 10.

(1) The disputes between the Contracting Parties arising from the interpretation and application of the present Agreement shall be settled by negotiations between the two Parties. Should such a dispute be still unsettled six months after the date of the commencement of negotiations, at the request of one of the Contracting Parties, it shall be referred to an Arbitration Court.

(2) The Arbitration Court shall be appointed and shall function as follows: each Contracting Party shall appoint an Arbitrator;

the two Arbitrators shall by common agreement submit to the both Contracting Parties for approval a proposal for an Umpire, who must be a citizen of a third State designated by the two Contracting Parties. The Arbitrators shall be appointed within three months and the Umpire within five months of the date when one of the Contracting Parties notified the other Contracting Party of its wish to refer the dispute to an Arbitration Court. If any of the Arbitrators are not appointed within the agreed time, the Contracting Party which has failed to appoint its Arbitrator is considered to agree that the Arbitrator should be appointed by the Secretary-General of the United Nations Organization. Should both Contracting Parties fail to agree on the appointment of an Umpire, they are also considered to agree that the latter should be appointed by the Secretary-General of the United Nations Organization.

(3) The awards of the Arbitration Court shall be based on the provisions of this Agreement and other relevant agreements concluded between the two Contracting Parties, as well as on the principles and rules of Public International Law. The Arbitration Court shall issue the award by a majority of votes and its award shall be final and binding on the two Parties. Only the Governments of the two Contracting Parties are entitled to refer a suit to the Arbitration Court and to carry out the proceedings.

(4) Each Contracting Party shall bear the expenses required for the Arbitrator it has appointed as well as those incurred by its representatives before the Court. The expenses incurred in relation to the Umpire and other expenses shall be borne equally by the two Contracting Parties.

(5) The Arbitration Court shall establish its own procedure.

Article 11.

(1) The present Agreement shall be submitted for ratification; the instruments of ratification shall be exchanged as soon as possible in Bucharest.

(2) The present Agreement shall come into force one month after the exchange of ratification instruments. It shall remain valid for a period of twenty years and shall be extended for another period of twenty years unless either Contracting Party notifies in writing the other of its intention to terminate the Agreement a year prior to its expiry. Upon the expiry of the first twenty-year period, the Agreement may be denounced by either party at any time but shall continue to remain in force for another year after it has been denounced.

(3) For capital investment effected up to the date of expiry of the validity of the present Agreement, its provisions shall continue to be applicable for a period of twenty years, from the date of its expiry as stated in paragraph 2 above.

Done and signed in Cairo, on May 10, 1976, in two originals equally authentic, in each of the Romanian, Arabic and English languages. In case of differences of interpretation the English text will prevail.

By authority of the Socialist Republic of Romania:

[Signed]

PETRU BURLACU

Ambassador Extraordinary and Plenipotentiary of the Socialist Republic of Romania

By authority of the Arab Republic of Egypt:

[Signed]

Dr. MOHAMED ZAKI SHAFEI

Minister of Economy and State for Economic Cooperation

Protocol

On the signing of the Agreement between the Socialist Republic of Romania and the Arab Republic of Egypt on the promotion and mutual guarantee of capital investments, the authorized undersigned have agreed upon the following, considered to be [an] integral part of the Agreement:

(1) Referring to Article 2

a) "Less favourable treatment" shall mean particularly: any limitation imposed upon buying of raw materials and auxiliary materials, energy and fuel as well as of means of production and exploitation of any kind and any obstacle to the sale of products on the territory of the country and abroad, as well as any other measures to the same effect. Measures taken on security, order, public health and morality grounds are not considered to mean "less favourable treatment" in the sense of Article 2.

b) The Contracting Parties shall decide within the framework of internal legal provisions on the entry and sojourn of persons belonging to either of the Contracting Parties who wish to enter the other Contracting Party's territory in connection with a project of capital investment, offering them all possible facilities; the same treatment shall be enjoyed by the personnel of a Contracting Party which in connection with a capital investment enter the territory of the other Contracting Party, and wish to stay and carry out activities in this capacity. Applications for a permit of work shall be given due consideration.

(2) Referring to Article 3

The provisions of paragraph 1 of Article 3 are applicable also when a capital investment becomes public property, when it is put under public control or in the event of analogous interventions of public authority. "Expropriation" is understood to mean cancellation or limitation of the right of property, which alone or along with other rights, constitutes a capital investment.

(3) Referring to Article 4

"Liquidation" is equally understood to mean in the sense of Article 4, any alienation effected in view of total or partial relinquishment of a capital investment.

(4) Referring to Article 6

"Effected without delay" is considered to be any transfer which is carried out within the normal time required for the fulfilment of transfer formalities. The time, which begins to run from the day of the application for transfer, can in no case exceed two months.

(5) Referring to Article 8

a) The "net profit" of investment and, in the event of reinvestment, the "net profit" of reinvestment, enjoys the same protection as the investment.

b) Without prejudice to other procedures for determination of nationality, a citizen of a Contracting Party is especially considered to be any person who possesses a national passport issued by the competent authorities of the Contracting Party involved.

(6) In the event of transportation of goods or persons in connection with capital investments, the Contracting Parties shall not exclude or bar the transport companies of the other Contracting Party and shall issue transport permits when necessary. These provisions are applied to transport of:

a) Goods which are directly designed for a capital investment in the sense of the present Agreement or which are bought on the territory of a Contracting Party or of a third State for an enterprise or for the account of an enterprise in which are invested funds in the sense of the present Agreement.

b) Persons who travel in connection with the achievement of the capital investment.

(7) The provisions of this Agreement regarding the most-favoured-nation clause are not applicable to the advantages granted by one of the Contracting Parties to investors of a third State, on the basis of an existing customs union, of a free trade area, or taking account of the appurtenance to an economic community.

Done and signed in Cairo, on May 10, 1976, in two originals equally authentic, in each of the Romanian, Arabic and English languages. In case of differences of interpretation the English text will prevail.

By authority of the Socialist Republic of Romania:

[Signed]

PETRU BURLACU

Ambassador Extraordinary and Plenipotentiary of the Socialist Republic of Romania

By authority of the Arab Republic of Egypt:

[Signed]

Dr. MOHAMED ZAKI SHAFEI

Minister of Economy and State for Economic Cooperation