

# **AGREEMENT ON RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS BETWEEN THE GOVERNMENT OF THE FEDERAL REPUBLIC OF ETHIOPIA AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN**

The Government of the Federal Democratic Republic of Ethiopia and the Government of the Islamic Republic of Iran hereinafter referred to as the "Contracting Parties";

Desiring to intensify their economic cooperation to the mutual benefit of both States;

Intending to utilize their economic resources and potential facilities in the area of investments as well as to create and maintain favorable conditions for investments of the investors of one Contracting Party in the territory of the other Contracting Party; and

Recognizing the need to promote and protect investments of the investors of one Contracting Party in the territory of the other Contracting Party;

Have Agreed as follows:

## **Article 1. Definitions**

For the purpose of this Agreement:

1. The term "investment" shall mean every kind of property or asset, invested by the investors of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the latter, including the following:

- a) movable and immovable property as well as rights related thereto such as mortgages, liens, usufructs and pledges;
- b) shares, stocks, bonds and any kind of participation in companies;
- c) titles to money or to any performance having an economic value;
- d) industrial and intellectual property rights such as patents, utility models, industrial designs or models, trade marks and names, know-how, utility models, industrial designs or models, knowhow, and goodwill;
- e) rights granted by law or under contract, including rights to search for, extract or exploit natural resources.

2. The term "investors" shall refer to either:

- a) natural persons who, according to the laws of either Contracting Party, are considered to be its national; or
- b) legal entities of either Contracting Party that are established under the laws of that Contracting Party and their head office or their real economic activities are located in the territory of that Contracting Party.

3. The term "returns" shall mean and amount yielded by an investment including profit derived from investments, interests, dividends, royalties and fees.

4. The term "territory" shall mean:

- a) With respect to the Federal Democratic Republic of Ethiopia, the territory in which the Federal Democratic Republic of Ethiopia exercises sovereign rights; and
- b) With respect to the Islamic Republic of Iran, areas under its sovereignty or jurisdiction, and includes its maritime areas.

5. The term "freely convertible currencies" shall mean currencies that are widely used to make payments for international

transactions and widely traded in principal international exchange markets.

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

1. Either Contracting Party shall encourage its investors to invest in the territory of the other Contracting Party.
2. Either Contracting Party shall, within the framework of its laws and regulations, create favorable conditions for attraction of investments of investors of the other Contracting Party in its territory.

## **Article 3. Admission of Investments**

1. Either Contracting Party shall admit investments of investors of the other Contracting Party in its territory in accordance with its laws and regulations.
2. When an investment is admitted, either Contracting Party shall, in accordance with its laws and regulations, grant all necessary permits for the realization of such an investment.

## **Article 4. Protection and Treatment of Investments**

1. Investments of investors of either Contracting Party effected within the territory of the other Contracting Party, shall receive the latter's full and constant security and protection and fair and equitable treatment. Such investments shall be accorded a treatment which is not less favorable than that the latter accords to the investments of its own investors or investments of the investors of the most favoured nation, which is more favorable to the investor.
2. Each Contracting Party shall accord in its territory to investors of the other Contracting Party, as regards management, maintenance, use, enjoyment and disposal of their investment, a treatment no less favorable than that it accords to its own investor or to investor of any state, whichever is more favorable to the investors.
3. Neither Contracting Party impair by arbitrary or discriminatory measures, the management, maintenance, use enjoyment, acquisition or disposal of such investments.
4. If a Contracting Party accords special advantage to investors of any third state by virtue of an agreement establishing a free trade area, a customs union, or common market, or an agreement on the avoidance of double taxation, it shall not be obliged to accord such advantages to investors of the other Contracting Party.

## **Article 5. More Favorable Provisions**

Notwithstanding the terms set forth in this Agreement, more favorable provisions which have been or may be agreed upon by either of the Contracting Parties with an investor of the other Contracting Party are applicable.

## **Article 6. Application of other Rules**

If the provisions of the laws and regulations of either Contracting Party or its obligations under international agreements contain a regulation, whether general or specific, entitling investments made by investors of the other Contracting Party to a treatment more favorable than the treatment provided for by this Agreement, such provisions to the extent that are more favorable to the investor, shall prevail over this Agreement.

## **Article 7. Expropriation and Compensation**

1. Investments of investors of either Contracting Party shall not be nationalized, expropriated or subjected to similar measures by the other Contracting Party except such measures are taken for public purposes, in accordance with due process of law on a non-discriminatory basis, and upon payment of prompt and effective compensation.
2. The amount of compensation shall be equivalent to the market value of the investments immediately before the action of nationalization, confiscation or expropriation was taken or became publicly known and shall include interest until the date of payment.

## **Article 8. Compensation for Losses**

1. Investors of either Contracting Party whose investments suffer losses due to any armed conflict, revolution or similar

state of emergency in the territory of the other Contracting Party shall be accorded by the other Contracting Party a treatment as regards restitution, indemnification, or compensation, no less favorable than that accorded to its own investors or to investors of any third country.

2. Without prejudice to Paragraph 1 of this Article, investors of one Contracting Party who in any of the situations referred to in that

Paragraph suffer losses in the territory of the other Contracting Party resulting from:

- a) requisition of their investment or a part thereof by the latter's forces or authorities; or
- b) destruction of their investment or a part thereof by the latter's forces or authorities which was not required by the necessity of the situation;

Shall be accorded, without undue delay, restitutions or just compensation.

## **Article 9. Repatriation and Transfer**

Each Contracting Party shall permit in good faith the following transfers related to investments referred to in this Agreement, to be made freely and without delay. Such transfer shall in particular include:

- a) Returns;
- b) Proceeds from the sale and /or liquidation of all or part of an investment;
- c) Royalties and fees related to transfer of technology agreement;
- d) Sums paid pursuant to Articles 7 and /or 8 of this Agreement;
- e) Loan installments related to an investment;
- f) Monthly salaries and wages received by the employees of an investor who have obtained in its territory, the corresponding work permits related to that investment; and
- g) Payments arising from decision of the courts or arbitration tribunals referred to in Article 12

The above transfers shall be effected in a freely convertible currency and at the prevailing rate of exchange on the date of transfer.

A Transfer shall be deemed to have been made "without delay" if effected within such period as is normally required for the completion of transfer formalities.

## **Article 10. Subrogation**

If a Contracting Party or its designated agency, within the framework of its legal system, subrogates an investor pursuant to a payment made under an insurance or guarantee agreement against non-commercial risks:

- a) Such subrogation shall be recognized, by the other Contracting Party.
- b) The subrogee shall not be entitled to exercise any rights other than the rights which the investor would have been entitled to exercise.
- c) Disputes between the subrogee and the other Contracting Party shall be settled in accordance with Article 12 of this Agreement.

## **Article 11. Scope of Application**

1. This Agreement shall apply to investments made by investors of either Contracting Party in the territory of the other Contracting Party, whether made before or after the entry into force of this Agreement, but shall not apply to any dispute concerning an investment which arose or to any claim which was settled before its entry into force.

2. In the case of the Islamic Republic of Iran only investments approved by the competent authorities of that Contracting Party are covered by this Agreement. The competent authority in the Islamic Republic of Iran is the Organization for Investment, Economic and Technical Assistance of Iran (O.I. E.T.A.I) or the Agency which might succeed it.

## **Article 12. Settlement of Disputes between a Contracting Party and an Investor of the other Contracting Party**

1. Disputes between one Contracting Party and investor of the other Contracting Party, in connection with his investment, shall be notified in writing, including detailed information, by the investor to the recipient party of the investment.

As far as possible, the inventor and the concerned party shall endeavor to settle the disputes amicably through consultations and negotiations.

2. If the disputes cannot be settled amicably within six months from the date on which the written notification is delivered, the dispute can be submitted, as the investor may choose, to:

i) the competent court or Arbitral Tribunal of the Contracting Party in the territory of which the investment has been made; or

ii) the International Center for Settlement of Investment Disputes (ICSID) set up by the "Convention on Settlement of Investment Disputes between States and Nationals of Other States", in case both Parties are members to this Convention; or

iii) an ad hoc arbitral tribunal to be established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).

b. The awards rendered shall be final and binding on the Parties to the dispute, and each Contracting Party commits itself to execute the award according to its own National law.

## **Article 13. Settlement of Disputes between the Contracting Parties**

1. All disputes arising between the Contracting Parties relating to the interpretation or application of this Agreement shall, in the first place, be settled amicably through consultation. In case of disagreement, either Contracting Party may, while sending a notice to the other Party, refer the case to an arbitral tribunal.

Where the dispute is referred to an arbitral tribunal, either Contracting Party shall appoint an arbitrator within sixty days from the receipt of the notification and the arbitrators appointed by the Contracting Parties shall appoint a third arbitrator who shall be a chairman of the tribunal within sixty days from the date of the last appointment. If one of the Contracting Parties fails to appoint its arbitrator or the two arbitrators fail to appoint the chairman within the said periods, the other Contracting Party may request the President of the International court of Justice, to appoint the arbitrator of the failing Party or the chairman, as the case may be.

However, the chairman shall be a national of a state having diplomatic relations with both Contracting Parties at the time of the appointment.

2. If the appointments are to be made by the President of the International court of Justice, and if the President of the International court of Justices is prevented from carrying out the said function or he is a national of either Contracting Party, the appointments shall be made by the senior member of the said court who is not a national of either Contracting Party.

3. Subject to other provisions agreed by the Contracting Parties, the arbitral tribunal shall determine its own procedure and the place of arbitration.

4. The decisions of the arbitral tribunal shall be final and binding on the Contracting Parties.

5. The Arbitral Tribunal shall reach its decision by a majority of votes.

6. Each Contracting Party shall bear the cost of the member appointed by that Contracting Party and the Contracting Parties shall assume an equal share of the cost of the chairman, as well as any other costs. However, the tribunal may make a different decision regarding the sharing of the costs.

## **Article 14. Entry Into Force**

1. This Agreement shall enter into force for a period of ten years after 30 days from the date of the last notification of either Contracting Party to the other Contracting Party that it has fulfilled necessary measures in accordance with its laws and regulations for the entry in to force of this Agreement. After the said period, this Agreement shall remain in force unless one of the Contracting Parties notifies in writing the other Contracting Party of its intention to terminate it, six months prior to the date of termination thereof.

2. However, this Agreement shall remain in force for investments made prior to its date of termination, for an additional period of 20 years.

This Agreement is done in duplicate in the Persian and English languages, both texts being equally authentic.

Signed in Addis Ababa on oct.21, 2003 corresponding to 29 Mehr 1382 by representatives of the Government of the Federal Democratic Republic of Ethiopia and the Government of the Islamic Republic of Iran.

For the Government of the Federal Democratic Republic of Ethiopia

For the Government of the Islamic Republic of Iran