

Agreement between the Swiss Confederation and the Arab Republic of Egypt concerning the encouragement and mutual protection of investments

The Government of the Swiss Confederation

and

the Government of the Arab Republic of Egypt,

Desiring to strengthen the economic cooperation between the two States,

With the intention of creating favorable conditions for capital investment by nationals and companies of each of the two States in the territory of the other and thereby intensifying cooperation in the fields of production, trade, tourism and technology,

Recognizing that the encouragement and protection of such investments are likely to stimulate the transfer of capital for the benefit of the economic welfare of both countries,

Have agreed as follows:

Article 1.

For the purposes of this Agreement:

1. The term "nationals" means:

natural persons who, under the legislation of each Contracting Party, are considered citizens of that State.

2. The term "corporations" means:

bodies, establishments or foundations having legal personality as well as general or limited partnerships and other communities of persons without legal personality in which nationals of either Contracting Party have a interest.

3. The term "investments" means:

all categories of assets accepted in accordance with the relevant legislation of each Contracting Party, in particular, but not exclusively :

- a) movable and immovable property as well as all other real rights such as mortgages, pledges, usufructs and similar rights;
- b) shares or other forms of participation;
- c) monetary claims arising from services having an economic value
- d) copyrights, industrial property rights, technical know-how, trademarks and trade names
- e) concessions under public law, including concessions for research, extraction and exploitation of natural resources.

4. The term "revenues" means:

amounts earned by an investment during a specific period in the form of net profits or interest.

Article 2.

Each Contracting Party shall, as far as possible, encourage investments made in its territory by nationals or companies of

the other Contracting Party.

Each Contracting Party may, however, make investments subject to prior formal approval in accordance with its legislation.

Article 3.

Each Contracting Party shall protect in its territory investments of nationals or companies of the other Contracting Party and shall ensure fair and equitable treatment of such investments.

Such treatment shall be at least equal to that accorded by each Contracting Party to its own nationals or companies or to the treatment accorded to nationals or companies of the most favored nation, whichever is more favorable.

It shall not, however, extend to privileges which a Contracting Party accords to nationals and companies of a third State by virtue of its participation in or association with a customs union, a common market or a free trade area.

Article 4.

The Contracting Parties shall not hinder the management, maintenance, use, enjoyment, increase and, where appropriate, liquidation of such investments.

In particular, each Contracting Party shall facilitate such investments in its territory and shall issue the necessary authorizations for this purpose, including authorizations relating to the implementation of manufacturing agreements, technical, commercial or administrative assistance, and the employment of experts and other qualified persons from the other Contracting Party or from a third State, in accordance with its legislation in force in this field.

However, each Contracting Party may refuse employment permits for security reasons.

Article 5.

Each Contracting Party in whose territory investments have been made by nationals or companies of the other Contracting Party shall grant to such nationals or companies the free transfer of:

1. Income;
2. Royalties arising from the intangible rights defined in Article 1, paragraph 3, letters d) and e);
3. Partial payments for the repayment of loans;
4. Amounts spent for the management of the investment on the territory of the other Contracting Party or of a third State;
5. Additional funds required for the maintenance of the investment;
6. Payments for technical, commercial or administrative assistance within the meaning of Article 4, paragraph 2;
7. The value of a partial or total liquidation of the investment.

Article 6.

Neither Contracting Party shall take any measures of expropriation, nationalization or dispossession, direct or indirect, against investments of nationals or companies of the other Contracting Party, unless the legal requirements are observed and effective and adequate compensation is provided.

Such compensation shall be fixed at the time of expropriation, nationalization or dispossession. It shall be paid in the currency of the country of origin of the investment and shall be paid to the investor without undue delay.

Article 7.

If one of the Contracting Parties has granted any financial guarantee against non-commercial risks relating to an investment made by a national or a company in the territory of the other Contracting Party, the latter shall recognize the subrogation by assignment to the guarantor of the rights of the investor in respect of the damage, if a payment has been made under such guarantee to the extent of such payment and within the limits of the investor's rights.

Article 8.

This Agreement shall also apply to investments of nationals or companies of each of the Contracting Parties made before the entry into force of this Agreement and accepted in accordance with the legislation in force in each of the Contracting Parties.

Article 9.

Conditions more favorable than those of the present Agreement which have been agreed upon by one of the Contracting Parties with nationals or companies of the other Contracting Party shall not be affected by the present Agreement

Article 10.

The Contracting Parties shall endeavour to settle by negotiation any dispute concerning the interpretation or application of this Agreement.

If no agreement can be reached, either Contracting Party may submit the dispute to an arbitral tribunal. The arbitral tribunal shall consist of three members. Each Contracting Party shall appoint an arbitrator and the two arbitrators so appointed shall appoint a chairman who must be a national of a third State. If one of the Contracting Parties has not appointed its arbitrator within two months of the date on which one of the Contracting Parties informed the other Contracting Party of its desire to submit the dispute to an arbitral tribunal, the other Contracting Party may invite the President of the International Court of Justice to make such appointment. If the two arbitrators cannot agree on the choice of the chairman within two months from the date of the second appointment, either Contracting Party may invite the President of the International Court of Justice to appoint the chairman.

If the President of the International Court of Justice is a national of one of the Contracting Parties or if he is prevented from exercising his mandate, the Vice-President shall be invited to make the necessary appointments. If the Vice President is a national of one of the Contracting Parties or if he or she is also prevented from exercising his or her mandate, the most senior member of the International Court of Justice who is not a national of any of the Contracting Parties and who is not prevented from exercising his or her mandate shall be invited to make the necessary designations.

Unless the Contracting Parties provide otherwise, the arbitral tribunal shall determine its own procedure.

The arbitral tribunal shall take its decisions by majority vote. Its decisions shall be final and binding on the Contracting Parties.

Article 11.

In accordance with international law, domestic legal remedies must be exhausted before a dispute can be brought before international judicial authorities.

Article 12.

Four letters (No. I-IV) exchanged between the Contracting Parties are annexed to this text.

Letter No. I referring to Article 1, paragraph 2, and letter No. IV referring to Article 8 form an integral part of the present Agreement.

Article 13.

The present Agreement shall be subject to ratification. The instruments of ratification shall be exchanged as soon as possible at Berne.

The Agreement shall enter into force on the day of the exchange of the instruments of ratification. It shall remain in force for a period of five years and, unless one of the Contracting Parties denounces it, shall remain in force for a further period of five years and so on.

If one of the Contracting Parties wishes to terminate the Agreement, it may do so by giving official written notice to the other Contracting Party six months before the expiration of each five-year period.

If this Agreement is terminated by official notification, the provisions of Articles 1-12 above shall continue to apply for a period of five years to investments made prior to the date of the official notification.

Done at Cairo, this 25th day of July 1973, in duplicate, in the English, French and Arabic languages, the English text being authentic.

For the Government of the Swiss Confederation

Hans Karl Frey

For the Government of the Arab Republic of Egypt:

Abdel Azlz Hegazi

Exchange of Letters No. I

Cairo, July 25, 1973

The Chairman of the Egyptian Delegation

His Excellency

Dr Hans Karl Frey,

Ambassador of Switzerland,

President of the Swiss Delegation,

Cairo

Dear Mr. President

I have the honor to acknowledge receipt of your letter of today, which reads as follows

"Referring to Article 1, number 2, of the Agreement between the Swiss Confederation and the Arab Republic of Egypt concerning the reciprocal encouragement and protection of investments, signed today, I have the honor to draw your attention to the following point:

Notwithstanding Article 1, paragraph 2, either party may reserve the right to deny the benefit of this Convention to any company in which nationals or companies of a third State have a predominant interest.

The two Contracting Parties shall agree in each case as to whether the interest belonging to the nationals of one of the Contracting Parties constitutes a predominant interest making it possible to control the company or to exercise decisive influence over it. If agreement cannot be reached, the case shall be settled in accordance with Article 10.

I would be grateful if you could confirm your agreement to the above."

I have the honor to confirm my agreement with the contents of your letter.

Please accept, Mr. President, the assurance of my highest consideration.

Abdel Aziz Hegazi

Deputy Prime Minister and Minister of Finance, Economy and Foreign Trade

Exchange of Letters No. II

Cairo, July 25, 1973

The Chairman of the Swiss Delegation

His Excellency

Dr. Abdel Aziz Hegazi,

Vice-Prime Minister and Minister of Finance, Economy and Foreign Trade,

Chairman of the Egyptian Delegation,

Cairo

Dear Mr. President

I have the honor to acknowledge receipt of your letter of today, which reads as follows

"Referring to Article 2, paragraph 2, of the Convention between the Arab Republic of Egypt and the Swiss Confederation concerning the reciprocal encouragement and protection of investments, signed today, I have the honor to explain the procedure to be followed for foreign investments in the Arab Republic of Egypt:

(1) Applications for new investments should be submitted to the General Authority for Investment of Arab Funds and Free Zones.

2. if the proposed investment meets the conditions for approval stipulated in the Law No. 65/1971 concerning the Investment of Arab Funds and Free Areas, the application must be made in accordance with the procedure stipulated in the Implementing Regulations of this Law. If the investment is approved, it will be registered in the Authority's books. A certificate will be issued as proof of registration. The investment will then benefit from all the facilities provided for in the aforementioned law.

3) Applications for investments other than those covered by Law 65/1971 shall be formally submitted to the same Authority for approval. If such an application is approved, the investment will be made in accordance with the laws and regulations in force without, however, benefiting from the facilities provided for by Law 65/1971.

4. if a registration certificate has been issued for investments subject to Law 65/1971, or if the Authority has given its approval to other investments, both categories of investments shall be considered accepted in accordance with the laws of the Arab Republic of Egypt.

I would be grateful if you could confirm that you are aware of the contents of this letter."

I have the honor to confirm that I have read the above.

Please accept, Mr. President, the assurance of my highest consideration.

H. K. Frey

Ambassador of Switzerland

Exchange of Letters No. III

Cairo, 25 July 1973

The President of the Swiss Delegation

His Excellency

Dr. Abdel Aziz Hegazi,

Deputy Prime Minister and Minister of Finance, Economy and Foreign Trade,

Chairman of the Egyptian Delegation,

Cairo

Dear Mr. Chairman

I have the honor to acknowledge receipt of your letter addressed to me today, which reads as follows

"Referring to Article 5, number 4, of the Convention between the Arab Republic of Egypt and the Swiss Confederation concerning the reciprocal encouragement and protection of investments, signed today, I have the honor to declare that, in accordance with the principles observed by the competent authorities of the Arab Republic of Egypt, Amounts spent by investors in Switzerland or in a third country for the management of their investment in the Arab Republic of Egypt are not compensable, unless the investment produces net profits at the end of the financial year commensurate with these

expenses.

If, however, the investment does not produce profits to the extent required, any uncompensated amounts may be carried forward to subsequent years and will be compensated as soon as the investment produces sufficient net profits to meet these liabilities.

I would be grateful if you could confirm that you are aware of the contents of this letter."

I have the honor to confirm that I have read the contents of your letter.

Please accept, Mr. President, the assurance of my highest consideration.

H. K. Frey

Ambassador of Switzerland

Exchange of Letters No. IV

Cairo, July 25, 1973

The President of the Swiss Delegation

His Excellency

Dr. Abdel Aziz Hegazi, Deputy Prime Minister and Minister of Finance, Economy and Foreign Trade

Chairman of the Egyptian Delegation,

Cairo

Dear Mr. Chairman

I have the honor to acknowledge receipt of your letter addressed to me today, which reads as follows

"Referring to Article 8 of the Convention between the Arab Republic of Egypt and the Swiss Confederation concerning the reciprocal encouragement and protection of investments, signed today, I have the honor to draw your attention to the following:

Property belonging to the nationals or companies of each Contracting Party and which is not considered as an investment under the terms of Article 1, paragraph 3, of the Convention, shall be treated by each Contracting Party in accordance with international law. In the event of a dispute, the two Contracting Parties agree that the dispute shall be submitted to the International Court of Justice.

I should be grateful if you would confirm your agreement to the foregoing.

I have the honor to confirm my agreement with the contents of your letter.

Please accept, Mr. President, the assurance of my highest consideration.

H. K. Frey

Ambassador of Switzerland