

Agreement between the Government of the People's Republic of China and the Government of the State of Israel for the Promotion and Reciprocal Protection of Investments

The Government of the People's Republic of China and the Government of the State of Israel (hereinafter referred to as the Contracting Parties),

Desiring to intensify the economic cooperation of both States on the basis of equality and mutual benefits,

Intending to create favorable conditions for greater investments by investors of either Contracting Party in the territory of the other Contracting Party,

And,

Recognizing that the encouragement and reciprocal protection of investments on the basis of the present 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 the present Agreement:

1. The term "investments" shall comprise any kind of assets, implemented in accordance with the laws and regulations of the Contracting Party in whose territory the investment is made, including, but not limited to;

- a) Movable and immovable property;
- b) Right derived from shares, debentures and other kinds of interests in companies;
- c) Claims to money and other assets and to any performance having an economic value;
- d) Rights in the field of intellectual property, technical processes, goodwill and know-how;
- e) Business concessions conferred by law or under contract, permitted by law, including concessions to search for, cultivate, extract or exploit natural resources.

2. A change in the form in which assets are invested or reinvested, in accordance with the laws and regulations of the Contracting Party in whose territory the investment is made, done not affect their character as investments within the meaning of this Agreement.

3. The term "investor" shall comprise:

- a) Natural person who are nationals of the Contracting Party concerned from the law in force in that Contracting Party, who are not also nationals of the other Contracting Party, or
- b) Companies including corporations, firms or associations incorporated or constituted in accordance with the law of the Contracting Party concerned.

4. The term "returns" shall comprise the amount yield by an investment including, but not limited to: dividends, profit, interest, capital gains, royalties of fees.

5. This Agreement shall also apply to investments made by investors of one Contracting Party in the territorial sea or maritime zone or on the Continental Shelf where the other Contracting Party exercises its sovereignty or sovereign rights or jurisdiction, under international law.

Article 2. Promotion and Promotion of Investments

1. Each Contracting Party shall in, its territory, encourage and create favorable conditions for investments by investors of the other Contracting Party and, subject to its right to exercise the powers conferred by its laws, shall admit such investments.
2. Investments made by investors of each Contracting Party shall be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the Contracting Party. Neither Contracting Party shall, without prejudice to its laws and regulations, in any way impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment or disposal of investments in its territory of investors of the other Contracting Party.
3. Each Contracting Party shall, subject to and in accordance with its laws and regulations and the procedures and practices thereunder, grant assistance in and provide facilities for obtaining visas and working permits to nationals of the other Contracting Party to or in the territory of the former in connection with such investments.

Article 3. Most Favoured Nation Treatment

1. Neither Contracting Party shall, in its territory, subject investments or returns of investors of the other Contracting Party to treatment less favorable than that which it accords to investments or returns of investors of any third state.
2. Neither Contracting Party shall, in its territory, subject investors of the other Contracting Party, as regards their management, maintenance, use, enjoyment or disposal of their investments, to treatment less favorable than that which it accords to investors of any third state.

Article 4. Compensation for Losses

1. Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection, riot, or other such similar activity in the territory of the latter Contracting Party shall be accorded by the latter Contracting Party treatment regarding compensation no less favorable than that which the latter Contracting Party accords to investors of any third state.
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:
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) Requisitioning of their property by its forces or authorities, or
 - (b) Destruction of their property by its forces or authorities, which was not caused in combat action or was not required by the necessity of the situation, shall be accorded restitution or reasonable compensation.
3. Resulting payments under this Article shall be freely transferable.

Article 5. Expropriation

1. Investments of investors of either Contracting Party shall not be nationalized, expropriated or subjected to measures having effect equivalent to nationalization or expropriation (hereinafter: "expropriation") in the territory of the other Contracting Party, except for a public purpose related to the internal needs of that Contracting Party on a non-discriminatory basis and against reasonable compensation. Such compensation shall amount to the market value of the investment expropriated immediately before the expropriation or before the impending expropriation became public knowledge, whichever is the earlier, shall include interest as provided by law until the date of payment, shall be made without undue delay, be effectively realizable and be freely transferable. The investors affected shall have a right, under the law of the Contracting Party making the expropriation, to prompt review, by a judicial or other independent authority of that Contracting Party, of his or its case and of the valuation of his or its investment, in accordance with the principles set out in this paragraph.
2. Where a Contracting Party expropriates the assets of a company, within the meaning of Article 1 (3), which is incorporated or constituted under the law in force in its territory and in which investors of the other Contracting Party own shares, or other ownership rights, it shall ensure that the provisions of paragraph (1) of this Article are applied to the extent necessary to guarantee reasonable compensation, as provided for above, in respect of their investment to such investors of the other Contracting Party who are owners of those shares or other ownership rights.

Article 6. Repatriation of Investment and Returns

Each Contracting Party shall, subject to its laws and regulations, guarantee to investors of the other Contracting Party all the rights and benefits regarding the unrestricted transfer of their investments and returns which were in force on the day the current investment was implemented; provided, however, that the investor has complied with all his fiscal obligations and has fulfilled all the requirements of the exchange regulations. Transfers shall be effected without undue delay in the convertible currency in which the capital was originally invested or in any other convertible currency agreed by the investor and the Contracting Party concerned. Unless otherwise agreed by the investor, transfers shall be made at the rate of exchange applicable on the date of transfer pursuant to the exchange regulations in force.

Article 7. Exceptions

The provisions of this Agreement relative to the grant of treatment not less favorable than 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 the benefit of any treatment, preference or privilege resulting from:

- (a) Any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating Wholly or mainly to taxation;
- (b) Any customs union, free trade area agreement or similar international agreement to which either Contracting Party is or becomes a party.

Article 8. Disputes between an Investor and a Contracting Party

1. Any dispute with respect to the amount of compensation in the case of expropriation may be submitted to the International Centre for Settlement of Investment Disputes for resolution, as follows:

- (a) Each Contracting Party hereby consents to submit to the International Centre for the Settlement of Investment Disputes (hereinafter: the "Centre") for settlement by conciliations or arbitration under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States opened for signature at Washington on 18 March 1965 any legal dispute arising between that Contracting Party and an investor of the other Contracting Party concerning the amount of compensation in the case of expropriation.
- (b) If any such dispute should arise and cannot be resolved, amicably, within six (6) months from written notification of the existence of the dispute, then the investor affected may institute conciliation or arbitration proceedings by addressing a request to that effect to the Secretary-General of the Centre, as provided in Article 28 or 36 respectively of the Convention.

2. All arbitral awards shall be final and binding on the parties to the dispute.

3. All sums received as a result of a settlement shall be freely transferable.

Article 9. Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should, if possible, be settled through the diplomatic channel, which may include, if both parties so desire, referral to a Bilateral Commission composed of representatives of both Contracting Parties.

2. If a dispute between the Contracting Parties cannot thus be settled within six (6) months from notification of the dispute, it shall, upon the request of either Contracting Party, be submitted to an arbitral tribunal.

3. Such an arbitral tribunal shall be constituted for each individual case in the following way: Within four months of the receipt of the request for arbitration, each Contracting Party shall appoint one member of the tribunal. Those two members shall then select a national of a third State who, on approval by two Contracting Parties, shall be appointed Chairman of the Tribunal. The Chairman shall be appointed within four months from the date of appointment of the other two members, and shall not be a national of either Contracting Party.

4. The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be binding on both Contracting Parties. Each Contracting Party shall bear the cost of its own member of the tribunal and of its representation in the arbitral proceedings; the cost of the Chairman and the remaining costs shall be borne in equal parts by the Contracting Parties. The tribunal shall determine its own procedure.

Article 10. Subrogation

1. If one Contracting Party or its designed Agency (hereinafter: the "First Contracting Party") makes a payment under an indemnity given in respect of an investment in the territory of the other Contracting Party (hereinafter: the "Second Contracting Party"), the Second Contracting Party shall recognize:

(a) The assignment to the First Contracting Party by law or by legal transaction of all rights and claims of the party indemnified; and

(b) That the First Contracting Party is entitled to exercise such rights and enforce such claims by virtue of subrogation, to the same extent as the party indemnified.

2. The First Contracting Party shall be entitled in all circumstances to:

(a) The same treatment in respect of the rights and claims acquired by it, by virtue of the assignment; and

(b) Any payments received in pursuance of those rights and claims, as the party indemnified was entitled to receive by virtue of this Agreement, in respect of the investment concerned and its related returns.

3. The First Contracting Party shall assume all the obligations related to the investment.

4. Any payments received by the First Contracting Party, in pursuance of the rights and claims acquired, shall be freely available to the First Contracting Party for the purpose of meeting any expenditure incurred in the territory of the Second Contracting Party.

Article 11. Application of other Rules

If the provisions of law of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to the present Agreement contain rules, whether general or specific, entitling investments by investors of the other Contracting Party to be treated more favorably than is provided for by the present Agreement, such rules shall to the extent that they are more favorable prevail over the present Agreement.

Article 12. Application to Investments

The provisions of this Agreement shall apply to the rights and obligations of both Contracting Parties with respect to investments made on or before the date of entry into force of this Agreement.

Article 13. Entry Into Force

Each contracting Party shall notify the other Contracting Party of the completion of the procedures required for bringing this Agreement into force. This Agreement shall enter into force on the date of the latter notification.

Article 14. Duration and Termination

This Agreement shall remain in force for a period of 5 years. Thereafter, it shall continue in force until the expiration of 12 months from the date on which either Contracting Party shall have given written notice of termination to the other. In respect of investments made while this Agreement is in force, its provisions shall continue in effect with respect to such investments for a period of 10 years after the date of termination.

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

Done at Beijing this 10th day of April 1995, which corresponds to the 10 of Nissan, 5755 in duplicate, in the Chinese, Hebrew and English languages, all three texts being equally authentic.

In case of differences of interpretation, the English text shall prevail.

For the Government of the People's Republic of China

For the Government of the State of Israel

At the time of signing the Agreement between the Government of the people's Republic of China and the Government of the State of Israel for the Promotion and Reciprocal Protection of Investments, the undersigned, duly authorized by their respective governments, have in addition, agreed upon the following provisions:

1. Article 1 paragraph 3 (a) With regards to all aspects of this Agreement, an Israeli permanent resident enjoys the same rights and obligations as Israeli national , and shall therefore, for the purposes of this Agreement, be considered an Israeli national. (b) Companies of one Contracting Party wishing to invest in the territory of the other Contracting Party shall not be considered for the time being as investors of the first Contracting Party, if they are owned or controlled directly or indirectly by companies of the second Contracting Party.

2. Article 6: The representatives of the Government of the Stat Israel stipulated that the State of Israel entered into several Investment Agreements prior to January 1,1992 which contained language different from that contained in the Agreement between the Contracting Parties. The process of modifying those prior Agreement has begun, so as to conform to the language of this Agreement. The Contracting Parties have agreed that the procedures for bringing this Agreement into force will be undertaken after the prior Agreements have bee so modified.

3. Article 10: The Contracting Parties shall constr ue this Article as including the following: (a) In the event of a dispute between an investor and a Contracting Party, the Contracting Party which is a party to the dispute shall not raise as an objection at any stage of the proceedings or enforcement of an award the fact that the investor which is the other party to the dispute has received, in pursuance of an insurance contract, an indemnity in respect of some or all of his or its losses, unless the investor has assigned his or its rights and claims to the First Contracting Party according to this Article. This protocol shall be an integral part of the Agreement between Government of the People's Republic of China and the Government of State of Israel for the Promotion and Reciprocal Protection Investments.

Done in duplicate at Beijing on this 10th day of April, 1995, which corresponds to the 10th day of Nissan, 5755 in the Chinese, Hebrew and English languages, all three texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Government of the People's Republic of China For the Government of the State of Israel