

AGREEMENT BETWEEN THE SLOVAK REPUBLIC AND THE SYRIAN ARAB REPUBLIC FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Slovak Republic and the Syrian Arab Republic hereinafter referred to as the "Contracting Parties".

Bearing in mind the friendly and cooperative relations existing between the two Contracting Parties and their people;

Intending to create and maintain favourable conditions for investments of investors of one Contracting Party in the territory of the other Contracting Party on the basis of sovereign equality and mutual benefit;

Recognizing that the encouragement and reciprocal protection of such investments will be conducive to the stimulation of the economic cooperation between both Contracting Parties;

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term investment means every kind of assets or rights invested by investors of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the latter Contracting Party and in particular, though not exclusively, includes:

- a. movable and immovable property as well as other rights such as mortgages, privileges, guaranties and any other similar rights;
- b. shares in, stocks and debentures of, and any other form of participation in a company or any business enterprise and rights or interest derived therefrom;
- c. claims to money or to any performance under contract having economic value associated with investment;
- d. intellectual property rights including rights with respect to copyrights, patents, trademarks, trade names, industrial designs, technical processes, trade secrets and know-how, and goodwill; and
- e. business concessions having a financial value associated with investment conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources.

Any change of the form in which assets or rights are invested or reinvested shall not affect their character as an investment.

2. The term return" means the amount yielded by investments and, in particular, though not exclusively, includes profit, interest, capital gains, shares, dividends, royalties or fees.

3. The term investor means for either Contracting Party, the following subjects who invest in the territory of the other Contracting Party in accordance with the laws of the latter Contracting Party and provisions of this Agreement:

In respect of the Slovak Republic:

- i. natural persons having the nationality of the Slovak Republic in accordance with its laws;
- ii. legal persons or other entities, which are incorporated or constituted in accordance with the laws and regulations of the Slovak Republic and have their registered office, central administration or principal place of business in the territory of the Slovak Republic. However, should such a legal person have only its registered office in the territory of the Slovak Republic, its operations must possess a real and continuous link with the economy of the Slovak Republic.

In respect of Syrian Arab Republic:

- i. natural persons having the nationality of the Syrian Arab Republic in accordance with its laws and regulations;
- ii. juridical persons or other economic entities, that enjoying juridical personality, established in accordance with the Syrian laws and regulations and domiciled in its territory.

4. The term "territory" means:

As regards the Slovak Republic, the land territory, internal waters and the airspace above them, over which it exercises its sovereignly, sovereign rights and jurisdiction in accordance with international law.

As regards the Syrian Arab Republic, the term Syria means in accordance with international law, the territories of the Syrian Arab Republic including its internal waters, territorial sea, the subsoil thereof and the airspace above them to which Syria has sovereign rights and other maritime areas to which Syria has the rights to exercise sovereign rights for the purposes of exploration, exploitation and conservation of natural resources;

5. Freely convertible currency means the currency that is widely used to make payments for international transactions and widely exchanged in principal international exchange markets.

6. Public purpose means as established under the national laws and regulations of each of the Contracting Parties.

Article 2. Promotion and Protection of the Investments

1. Either Contracting Party shall encourage and create favorable conditions for investors of the other Contracting Party to invest in its territory and shall admit such investments in accordance with its laws and regulations.

2. Investments of investors of either Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy adequate protection and security in the territory of the other Contracting Party. Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the acquisition, expansion, operation, management, maintenance, use, enjoyment or any other disposal of investments in its territory by investors of the other Contracting Party.

Article 3. National and Most-favoured-nation Treatment

1. Each Contracting Party shall in its territory accord to investments and returns of investors of the other Contracting Party treatment which in any case shall not be less favourable than that which it in like circumstances accords to investments and returns of its own investors or to investments and returns of investors of any third State, whichever is more favourable to the investors concerned.

2. Neither Contracting Party shall in its territory subject investors of the other Contracting Party, as regards their expansion, management, maintenance, use, enjoyment or disposal of their investments to treatment less favourable than that which it in like circumstances accords to its own investors or to investors of any third State, whichever is more favourable to the investors concerned.

3. The provisions of paragraphs 1 and 2 of this Article shall not be construed so as to oblige one Contracting Party to extend to investors of the other Contracting Party or to the investments or returns of such investors, the benefit of any treatment, preference or privilege resulting from:

- a. any existing or future customs, economic or monetary union, a common market, a free trade area or a regional economic organisation or similar international agreement to which the Contracting Party is or may become a party; or
- b. any obligation which is binding on that Contracting Party by virtue of its membership to the above mentioned customs, economic or monetary union or common market; or
- c. any international agreement on avoidance of double taxation or any other international arrangements on reciprocal basis regarding tax matters.

Article 4. Expropriation

1. Each Contracting Party shall not take any measures of expropriations, nationalization or any other dispossession, having effect equivalent to nationalization or expropriation against the investments of an investors of the other Contracting Party except under the following conditions:

- a. the measures are taken for a lawful purpose or public purpose and under due process of law;
 - b. the measures are non discriminatory.
 - c. the measures are accompanied by provisions for the payment of prompt, adequate and effective compensation. Such compensation shall amount to the fair market value without delay before the measure of dispossession became public knowledge. Such market value shall be determined in accordance with internationally acknowledge practices and methods or, where such market value cannot be determined, it shall be such reasonable amount as may be mutually agreed between the Contracting Parties hereto, and shall be freely transferable in freely convertible currency.
2. In both expropriation and compensation, treatment no less favourable than that which the Contracting Party accords to its own investors or to investors of any third State shall be accorded.
3. Investors of one Contracting Party affected by expropriation shall have a right to prompt review by a judicial or other independent authority of the other Contracting Party, of their case and of the valuation of their investments in accordance with the principles set out in this Article.
4. Where a Contracting Party expropriates the assets of a company, which is incorporated or constituted under its laws and regulations, and in which investors of the other Contracting Party own shares, debentures or other forms of participation, the provisions of this Article shall be applied on those shares, debentures or the other forms of participation.

Article 5. 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 or riot in the territory of the latter Contracting Party, shall be accorded by the latter Contracting Party treatment according to paragraph 2 of this article, as regards restitution, indemnification, compensation or other settlement.
2. The treatment shall not be less favorable than that which the latter Contracting Party accords to its own investors or investors of any third state, whichever is more favorable to the investors concerned.
3. 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. requisitioning of their property by forces or authorities of the other Contracting Party; or
 - b. destruction of their property by forces or authorities of the other Contracting Party which was not caused in combat action or was not required by the necessity of the situation,

Shall be accorded restitution or adequate compensation in no less favourable than that, which would be accorded under the same circumstances to an investor of the other Contracting Party or to an investor of any other State.

Article 6. Transfers

1. Each Contracting Party shall guarantee to investors of the other Contracting Party, after fulfillment of their financial obligations, the free transfer of payments, including principals, and returns related to their investments. Such transfers shall include, in particular, though not exclusively:
- a. net profit, capital gains, dividends, interest, royalties, fees and any other current income accruing from investments;
 - b. proceeds accruing from the sale or the total or partial liquidation of investments;
 - c. funds in repayment of loans related to investments;
 - d. earnings of nationals or residents of the other Contracting Party who are allowed to work in connection with investments in its state territory;
 - e. initial capital and additional funds necessary for the maintenance or development of the existing investments; and
 - f. compensation pursuant to Articles 4 and 5.
2. All transfers under this Agreement shall be made in a freely convertible currency and without undue delay.
3. Notwithstanding paragraphs (1) and (2) above, a Contracting Party may adopt or maintain measures relating to cross-border capital and payment transactions adopted by the European Communities and particularly but not limited by the

following cases:

- a. In the event of serious balance of payments and external financial difficulties or threat thereof; or
 - b. In cases where, in exceptional circumstances, movements of capital cause or threaten to cause serious difficulties for macroeconomic management, in particular, monetary and exchange rate policies; or
 - c. In the exceptional cases of economic sanctions.
4. Measures referred to in paragraph (3) of this Article;
- a. shall not exceed those necessary to deal with the circumstances set out in paragraph 3 of this Article;
 - b. shall be temporary and shall be eliminated as soon as conditions permit; and
 - c. shall be promptly notified to the other Contracting Party.

Article 7. Subrogation

1. If a Contracting Party or its designated agency makes a payment to its own investors under a guarantee or indemnity given in respect of investments in the territory of the other Contracting Party, the latter Contracting Party shall recognize:
 - a. the assignment, whether under the law or pursuant to a legal transaction in that State, of any rights or claims from investors to the former Contracting Party or its designated agency; and
 - b. that the former Contracting Party or its designated agency is entitled by virtue of subrogation to exercise the rights of and enforce the claims of those investors.
2. The subrogated rights or claims shall not exceed the original rights or claims of the investor.

Article 8. Settlement of Investment Disputes between a Contracting Party and an Investor of the other Contracting Party

1. Any dispute between an investor of one Contracting Party and the other Contracting Party in connection with an investment in the territory of the other Contracting Party shall, as far as possible, be settled amicably through negotiations between the parties to the dispute.
 2. If the dispute cannot be settled within twelve (12) months from the date on which the dispute has been notified by either party, it shall be submitted upon request and choice of the investor of the Contracting Party:
 - a. to local competent court of the Contracting Party which is a party to the dispute; or
 - b. to the International Center for Settlement of Investment Disputes (ICSID) established by the Washington Convention of 18 March 1965 on the Settlement of Investment Disputes between States and Nationals of other States in case both Contracting parties are parties to this Convention; or
 - c. to an international ad hoc arbitral tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).
- Each Contracting Party gives its consent to the submission of disputes to international arbitration set out in subparagraph b) and c). The investor shall decide whether the request shall be submitted to either local court or to one of arbitrations set out in paragraph 2, subparagraphs b) and c) of this Article. Such decision shall be final and binding for the parties to the dispute.
3. The award shall be final and binding on the parties to the dispute. Each Contracting Party shall ensure the recognition and enforcement of the award in accordance with its relevant laws and regulations.

4. The arbitration tribunal shall take its decisions in accordance with the provisions of this Agreement, the laws and regulations of the Contracting Party involved in the dispute, the rules of conflict of laws which the arbitration tribunal considers applicable, the terms of any specific agreement concluded in relation to the particular investment involved and the relevant principles of international law.

5. Neither Contracting Party shall have the right to make counter claim, as a defense, at any stage of arbitration or within 11 months of execution of arbitration decision for the reason that the investor of the other Contracting Party in the dispute has received or will receive, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of any alleged loss.

6, The local remedies under the laws and regulations of one Contracting Party in the territory of which the investment has been made shall be available for investors of the other Contracting Party on the basis of treatment no less favourable than that accorded to investments of its own investors or investors of any third State, whichever is more favourable to investors.

Article 9. Settlement of Disputes between the Contracting Parties

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, as far as possible, be settled by consultations through diplomatic channels.

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

3. Such arbitral tribunal comprises of three arbitrators. The Arbitral Tribunal shall be constituted for each individual case in the following way. Within two months (2) of the receipt of the request for arbitration, each Contracting Party shall appoint one member of the Tribunal. These two members shall then select a national of a third State who, on approval of the two Contracting Parties, shall be appointed Chairman of the Tribunal (hereinafter referred to as the "Chairman"). The Chairman shall be appointed within three (3) months from the date of appointment of the other two members.

4. If within the periods specified in paragraph 3 of this Article the necessary appointments have not been made, a request may be made by either Contracting Party to the President of the International Court of Justice to make the appointments. If the President of the International Court of Justice is a national of either Contracting Party, or if he is otherwise prevented from discharging the said function, the Vice-President of the International Court of Justice shall be invited to make the appointments. If the Vice-President of the International Court of Justice also happens to be a national of either Contracting Party or is prevented from discharging the said function, the member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the appointments.

5. The arbitral tribunal shall determine its own procedure and shall reach its award in accordance with the provisions of this Agreement and the principles of international law recognized by both Contracting Parties.

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

Article 10. Application of other Rules and Special Commitments

Where a matter is governed simultaneously both by this Agreement and by another international agreement to which both Contracting Parties are signatories, nothing in this Agreement shall prevent either Contracting Party or of any of its investors, who own investments in the territory of the other Contracting Party, from taking advantage of whichever rules are more favourable to his case.

Article 11. Applicability of this Agreement

This Agreement shall apply to investments made prior to its entry into force for the Contracting Parties concerned consistent with the laws and regulations of the Contracting Party in whose territory it was made as well as investments made thereafter. This Agreement shall apply to investments existing at the time of entry into force as well as to those established or acquired thereafter. However, this Agreement shall not apply to the disputes arising before its entry into force.

Article 12. Consultations and Amendments

1. Either Contracting Party may request that consultation be held on any matter concerning this Agreement. The other Contracting Party shall accord sympathetic consideration to the proposal and shall afford adequate opportunity for such consultations.

2. This Agreement may be amended at any time after its entry into force, if deemed necessary, by mutual consent.

Article 13. Entry Into Force, Duration and Termination

1. The present Agreement shall enter in force three (3) months after the date of the latest notification by any Contracting Party of the accomplishment of its internal procedures of ratification. It shall remain in force for a period of ten (10) years and shall continue in force thereafter for another period of ten (10) years and so forth unless denounced in writing by either

Contracting Party one (1) year before its expiration.

2. In respect of investments made prior to the date of termination of this Agreement become effective, the provisions of Article 1 to 12 shall remain in force for a further period of ten (10) years from the date of termination of the present Agreement.

IN WITNESS WHEREOF, the undersigned duly authorized thereto have signed this Agreement.

Done and signed in duplicate at Damascus on the... Day of February, 2009 in the Slovak, Arabic and English languages, all texts being equally authentic. In the case of any divergence of interpretation, the English text shall prevail.

For The Slovak Republic

Eubomir Jahnatek Minister of Economy

For The Syrian Arab Republic

Dr. Amer Husni Lutfi Minister of Economy and Trade