

AGREEMENT BETWEEN THE GOVERNMENT OF THE STATE OF ISRAEL AND THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA FOR THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of Slovenia and the Government of the State of Israel (hereinafter referred to as the "Contracting Parties");

Desiring to create favourable conditions for greater economic cooperation between their countries and in particular, with respect to investments by investors of one Contracting Party in the territory of the other Contracting Party; and

Recognising that the reciprocal promotion and protection of such investments under this Agreement will be conducive to the stimulation of business initiative and will increase prosperity in both States;

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investment" shall mean every kind of asset invested in accordance with the laws and regulations of the Contracting Party in whose territory the investment is made and in particular, though not exclusively:

- a) Movable and immovable property, as well as any other rights in rem such as mortgages, liens and pledges;
- b) Shares, stocks, bonds and any other form of participation in a company;
- c) Claim to money or a claim to performance having an economic value, and associated with an investment;
- d) Intellectual property rights, including rights with respect to copyright, patents, trade marks, trade names, industrial designs and rights in technical processes, goodwill and know-how;
- e) Concessions, conferred by law or under contract, to undertake any economic and commercial activity, including concessions to search for, cultivate, extract or exploit natural resources.

Any alteration of the form in which assets are invested or reinvested shall not affect their character as investments provided that such alteration is in accordance with the laws and regulations of the Contracting Party in whose territory the investment has been made.

2. The term "investor" shall mean

With respect to investments made in the Republic of Slovenia:

- a) Any natural person who is a national of the State of Israel who is not also a national of the Republic of Slovenia in accordance with their laws;
- b) Legal entities, including companies, corporations, firms or associations incorporated or duly constituted in accordance with the law of the State of Israel and having their seat in the State of Israel which are not directly or indirectly controlled by investors of the Republic of Slovenia.

With respect to investments made in the State of Israel:

- a) Any natural person who is a national of the Republic of Slovenia who is not also a national or permanent resident of the State of Israel in accordance with their laws;
- b) Legal entities, including companies, corporations, firms or associations incorporated or duly constituted in accordance

with the law of the Republic of Slovenia and having their seat in the Republic of Slovenia which are not directly or indirectly controlled by investors of the State of Israel.

3. The term "return" shall mean an amount yielded by an investment including profit, interest, dividends, capital gains, royalties, proceeds from the sale or liquidation of all or any part of the investment and all other lawful income.

4. The term "territory" shall mean with respect to each Contracting Party the territory of that Contracting Party and includes the territorial sea, exclusive economic zone and continental shelf where that Contracting Party exercises sovereignty, sovereign rights or jurisdiction in accordance with international law.

Article 2. Promotion and Protection of Investments

1. Each Contracting Party shall encourage and promote investments in its territory by investors of the other Contracting Party and shall, in accordance with its law, admit such investments.

2. Each Contracting Party shall protect investments made by investors of the other Contracting Party in accordance with its laws. Neither Contracting Party shall 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.

Article 3. National Treatment and Most Favoured Nation Status

1. Each Contracting Party shall ensure fair and equitable treatment within its territory to investments and returns of investors of the other Contracting Party. This treatment shall be in no case less favourable than that which, in like circumstances, it accords to its own investors or investors of any third State, whichever is more favourable.

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

3. The provision of this Article relative to the grant of treatment no less favourable than it 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 investors of the other the benefit of any treatment, preference or privilege resulting from:

a) Any existing or future customs or economic union, free trade area or agreement or similar international agreement to which either Contracting Party is or becomes a party;

b) Agreements concluded in order to prevent double taxation or facilitate cross-border trade;

c) The definition of "investment" (Article 1, paragraph 1) and the reference to "reinvestment" (Article 1, paragraph 2) and the provisions of Article 6 contained in agreements entered into force by the State of Israel prior to January 1, 1992.

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 any other form of armed conflict, revolution state of emergency, revolt, insurrection, riot or other such similar events in the territory of the latter Contracting Party shall be accorded by the latter Contracting Party as regards restitution, indemnification or compensation treatment no less favourable than that which it accords to its own investors or to investors of any third State. Resulting payments shall be freely transferable.

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) 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 adequate compensation. Resulting payments shall be freely transferable.

Article 5. Expropriation and Compensation

1. Investments of investors of either Contracting Party shall not be nationalised, expropriated or subjected to measures

having an effect equivalent to nationalisation or expropriation (hereinafter referred to as "expropriation") in the other Contracting Party, except for a public purpose, on a non-discriminatory basis, under due process of law and against prompt, effective and adequate compensation.

2. The compensation referred to in paragraph 1 of this Article shall be computed on the basis of the market value of the investment immediately before the expropriation or impending expropriation became public knowledge, whichever is the earlier, shall be payable from the date of expropriation with interest at the applicable rate provided by law, regulations or otherwise by the Contracting Party until the date of payment, shall be paid without delay and shall be effectively realisable and freely transferable.

3. The investor affected shall have the 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 its case and of the valuation of its investment, in accordance with the principles set out in this paragraph.

Article 6. Transfers

1. Each Contracting Party shall in respect of investments guarantee to investors of the other Contracting Party all their rights and benefits regarding the unrestricted transfer of their investments and returns which were in force on the day the current investment was made provided that the investor has complied with all its financial obligations and has fulfilled all the requirements of the exchange regulations.

2. Transfers shall be effected without 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 market rate of exchange applicable on the date of transfer.

3. In the event the exchange regulations of one Contracting Party are modified, that Contracting Party guarantees that it shall apply such modified exchange regulation or the exchange regulations which were in force on the day the current investment was made, whichever are more favourable.

Article 7. Subrogation

1. If one Contracting Party or its designated Agency (hereinafter referred to as the "First Contracting Party") makes a payment to an investor of that Contracting Party under a guarantee or a contract of insurance it has granted in respect of an investment, the other Contracting Party shall recognise the transfer of rights of any right or title in respect of such investment. 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. Where a Contracting Party has made a payment to its investors and has taken over the rights and claims of the investor, that investor shall not, unless authorised to act on behalf of the Contracting Party making the payment, pursue those rights and claims against the other Contracting Party.

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

1. Any dispute which may arise between a Contracting Party and an investor of the other Contracting Party relating to an investment shall, as far as possible, be settled amicably.

2. If the dispute can not be settled amicably or otherwise within three months from the date of written notification of the existence of the dispute, then the investor may submit the dispute to the International Centre for the Settlement of Investment Disputes (hereinafter referred to as the "Centre") for settlement by conciliation or binding arbitration under the Convention on the Settlement of Investment Disputes between States and Nationals of the other States (hereinafter referred to as the "Convention") done at Washington 18, March 1965.

3. Each Contracting Party hereby consents to submit to the International Centre for the Settlement of Investment Disputes (hereinafter referred to as the "Centre") for settlement by conciliation or arbitration under the Convention any legal dispute arising between that Contracting Party and an investor of the other Contracting Party concerning an investment of the latter in the territory of the former.

4. A legal entity which is incorporated or constituted under the law in force in the territory of one Contracting Party and in which, before such a dispute arises, the majority of shares are owned by nationals or companies of the other Contracting Party shall, in accordance with Article 25 (2) (b) of the Convention, be treated for the purposes of the Convention as a company of the other Contracting Party.

5. . The Contracting Party which is a party to the dispute relating to an investment shall not in any proceeding, or enforcement of an award raise as an objection the fact that the investor concerned has received or will receive pursuant to an insurance contract compensation for all or part of its alleged losses.

6. Neither Contracting Party shall pursue, through the diplomatic channel, any dispute referred to the Centre, unless:

(a) The Secretary General of the Centre or a conciliation commission or an arbitral tribunal constituted by it decides that the dispute is not within the jurisdiction of the Centre; or

(b) The other Contracting Party should fail to abide by or to comply with any award rendered by an arbitral tribunal.

Article 9. Settlement of Disputes between the Contracting Parties

1. All disputes which may arise between the Contracting Parties concerning the interpretation and application of this Agreement shall, as far as possible, be settled amicably.

2. If the Contracting Parties cannot reach an agreement within six months from the date of request for settlement, the dispute shall, upon request of either Contracting Party, be submitted to an arbitral tribunal of three members.

3. Such an arbitral tribunal shall be constituted for each individual case in the following way. Within two 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 country who on approval by the Contracting Parties shall be appointed Chairman of the tribunal. The Chairman shall be appointed within two months from the date of appointment of the other two members.

4. If the necessary appointments have not been made within the periods specified in paragraph (3) of this Article, either Contracting Party may, in the absence of any other agreement, invite the President of the Permanent Court of Arbitration in the Hague to make any necessary appointments. If the President is a national of either Contracting Party or is otherwise prevented from discharging the said function, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a national of either Contracting Party or is prevented from discharging the said function, the Member of the Permanent Court of Arbitration next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointments.

5. The arbitral tribunal shall reach its decision by a majority of votes. The decisions of the tribunal are final and 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 remaining costs shall be borne in equal parts by the Contracting Parties.

6. Subject to the provisions of this Article, the tribunal shall determine its own procedure.

Article 10. Other Provisions

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 this Agreement contain rules, whether general or specific, entitling investments by investors of the other Contracting Party to a treatment more favourable than is provided for in this Agreement, such rules shall to the extent that they are more favourable prevail over this Agreement.

Article 11. Application of the Agreement

The present Agreement shall also apply to investments existing before the entry into force of this Agreement.

Article 12. Entry Into Force, Duration and Termination

1. Each Contracting Party shall notify the other Contracting Party in writing through the diplomatic channel of the completion of its legal requirements for the entry into force of this Agreement. This Agreement shall enter into force on the date of the latter notification.

2. This Agreement shall remain in force for a period of ten years. Thereafter it shall continue in force until the expiration of twelve months from the date on which either Contracting Party shall have given written notice of termination to the other.

3. In respect of investments made while this Agreement is in force, the provisions of Articles 1 through 11 shall remain in force for a further period of ten years after the date of termination and without prejudice to the application thereafter of the rules of general international law.

Done in duplicate at Jerusalem on the 13th day of May, 1998, which corresponds to the 17 day of Iyar 5758 in the Slovene, Hebrew and English languages, all texts being equally authentic.

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

For the Government of the Republic of Slovenia

Marjan Senjur, (s)

For the Government of the State of Israel

Natan Sharansky, (s)