

AGREEMENT BETWEEN THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT AND THE GOVERNMENT OF THE REPUBLIC OF GABON CONCERNING THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the Arab Republic of Egypt

And the Government of the Republic of Gabon,

Hereinafter referred to as the "Contracting Parties",

Desiring to intensify economic cooperation between them,

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

Recognizing that an agreement to promote and protect investments will stimulate economic initiatives fostering the prosperity of both Contracting Parties,

Have agreed as follows:

Article 1. Definitions

For the purpose of this Agreement:

1. The term "investments" means any property, participation, or direct contribution or any kind of return from any kind of company or economic activity including assets, financial instruments, commitments, and social capital as an element of social work invested or reinvested in institutions that have economic activities, by a natural or legal person of one of the Contracting Parties in the territory of the other Contracting Party.

Investments shall include in particular though not exclusively:

- a) Assets or any kind of participation in companies constituted in the territory of one of the Contracting Parties.
- b) Reinvested funds, commitments, and rights resulting from participation in any activity with a financial or economic value.
- c) Movable and immovable funds, commercial funds, and in-kind property rights like mortgages, concessions, possessory liens, access rights and other such rights.
- d) Intellectual, industrial and technical property rights, trademarks, and any other form of similar rights.
- e) Franchising rights issued under general law including those regarding the exploration, extraction and exploitation of natural resources.

The Contracting Parties have agreed that any change in the form of the invested funds does not affect their character as investments.

2. The term "return" means all amounts yielded in a specific period by investments such as profits, dividends, interest, royalties and other fees.

3. The term "national" means, for any of the Contracting Parties, a person having the nationality of that Contracting Party in accordance with its laws and regulations.

4. The term "company" means every legal person constituted under the law of one of the Contracting Parties and has a

presence in the territory of that same Contracting Party.

5. The term "investor" means any natural or legal person, constituted under the laws of one of the Contracting Parties, who makes an investment in the territory of the other Contracting Party in accordance with the activities set out in paragraph (1) above.

6. The term "territory" means the national land, air and sea territories over which that Contracting Party exercises, in conformity with national and international law, sovereign rights or jurisdiction.

Article 2. Promotion, Protection and Treatment of Investments

1. Each Contracting Party shall permit the acceptance of investments by investors of the other Contracting Party in its territory, in accordance with its laws and the relevant international provisions, and investors shall accordingly receive fair and equitable treatment and shall enjoy protection and security in the territory of the other Contracting Party.

2. Investments of any of the Contracting Parties shall not be impaired by discriminatory or unreasonable measures with regards to the management, operation, maintenance, use, enjoyment, ownership, termination or liquidation of investments made by investors of the other Contracting Party.

3. Each Contracting Party shall observe commitments made with regards to investments made by investors of the other Contracting Party.

4. Investments by investors of each of the Contracting Parties, in the territory of the other Contracting Party, shall receive fair and equitable treatment, which shall not be less favorable than treatment granted to investments of investors from a third country.

5. The treatment referred to above shall not apply to privileges which either Contracting Party accords to investors of a third State based on:

a) A Contracting Party's membership in a customs union, common market, or free trade area, or any form of international economic arrangement.

b) A convention on the avoidance of double taxation or any other convention regarding fiscal matters.

Article 3. Compensation for Expropriation or Nationalization

1. Investments of investors of either Contracting Party shall not be subject to expropriation or any other measure having a similar effect to expropriation or nationalization in the territory of the other Contracting Party.

2. If, for public interest, it is necessary to undertake a measure mentioned in paragraph (1) above, then the following is to be adhered to:

a) Measures undertaken are to be legal, nondiscriminatory and shall not breach any special agreement as mentioned in Article (8).

b) Such measures shall provide for effective and adequate compensation in accordance with international law.

3. Such compensation shall amount to the real value of the concerned investments the night before the measures or the impending measures became public knowledge. The amount of compensation shall be settled in a convertible and freely transferable currency and paid without undue delay.

4. These amounts shall receive interest at a normal commercial rate until the date of their repayment.

5. An investor of either Contracting Party whose investments have been expropriated shall have the right to verify the legality of the expropriation, evaluate the investment and the amount of compensation, in accordance with the laws and regulations of the concerned Contracting Party, by a judicial or administrative authority in the territory of the Contracting Party making the expropriation.

6. If a Contracting Party expropriates the ownership of a company constituted in its territory as per its laws and regulations, and the stocks and shares were owned by an investor of the other Contracting Party, then the expropriating party shall abide by the text of the current article in ensuring an adequate and effective compensation for investors mentioned herein with regards to their investments.

Article 4. Compensation for Losses

1. Investors of either Contracting Party who suffer losses of their investments in the territory of the other Contracting Party due to war or other armed conflict, revolt, a state of national emergency, insurrection or riot in the territory of that Contracting Party shall be accorded, with respect to compensation, restitution, or other settlements, a treatment which is no less favorable than that accorded to its own investors or to investors of any third State.

2. Resulting payments or agreed upon settlements as per this article shall be completed immediately and shall be freely transferable.

Article 5. Transfers

1. Each Contracting Party shall accord to the investors of the other Contracting Party the free transfer of:

a) Investment returns.

b) The salaries, wages and other remuneration received by the citizens of one Contracting Party who have obtained in the territory of other Contracting Party the corresponding work permits in relation to an investment, in accordance with existing laws and regulations.

c) Funds in repayment of loans.

d) Amounts spent on the management of investments in the territory of the other Party.

e) Compensation provided for in Articles 3 and 4.

f) Capital and additional amounts intended to maintain or increase the investment.

g) The proceeds from the full or partial sale or liquidation of an investment while considering the higher value, increases in the invested capital and liquidation resulting from the conditions mentioned in Article (4).

2. Unless an investor of a Contracting Party has made other arrangements with the relevant authorities in the territory of the other Contracting Party where the investment is made the transfers referred to in Paragraph (1) of this article shall be made in freely transferable currency.

3. Transfers referred to in this article shall be made at the exchange rate prevailing on the date of the transfer and in accordance with the transfer procedures established by the Contracting Party in whose territory the investment was made.

4. Without prejudice to Article (3) and in case of balance of payments problems, where the requirement amount of compensation as per Article (3) is beyond the normal ability of the party that carried out the expropriation, this party shall have the right to transfer the amount of compensation in installments.

Article 6. Subrogation

1. If a Contracting Party or any agency thereof makes a payment to any of its investors under a guarantee, it has contracted in respect of an investment, the other Contracting Party shall recognize the validity of the subrogation in favor of the former Contracting Party or agency thereof.

2. The Contracting Party or any agency thereof which is subrogated in the rights of an investor shall be entitled to the same rights and obligations as those of the investor.

3. Subrogation shall also extend to the right of transfers and arbitration in Articles (5) and (10).

4. These rights and activities exercised by the guarantor are within the share of risk included in the guarantee agreement, and from the investor benefiting from the guarantee within limits not included in the agreement.

5. The other Contracting Party can abdicate the transferred rights to the subrogating Contracting Party, from the rights and obligations of the compensated investors.

Article 7. Entry, Residency and Work Permits

Each Contracting Party shall, subject to its laws and regulations, treat favorably the applications for the entry, residency, work and migration of investors of the other Contracting Party and those working in investment related activities covered by this agreement.

Article 8. Special Agreements

Investors of either Contracting Party shall have the right to conclude special agreements regarding investments with the other Contracting Party, provided that the provisions of that agreement do not conflict with the provisions of this agreement.

Article 9. Dispute Settlement between Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation and application of this Agreement shall, as far as possible, be settled amicably and through diplomatic channels.
2. Each Contracting Party shall appoint an arbitrator two months after either Contracting Party informs the other of their intention to submit the dispute for arbitration. The two Contracting Parties, through a joint agreement, shall choose a national of a third State to be chairman of the arbitral tribunal.
3. If not, then a Contracting Party shall invite the President of the International Court of Justice to make the previously mentioned appointments.
4. If the President of the International Court of Justice is a national of either Contracting Party or if he is prevented from carrying out the said function, the appointment shall be made by the Vice-President, and if the latter is a national of either Contracting Party or if he is prevented, the appointment shall be made by the most senior Judge of the Court.
5. The tribunal shall determine its procedure, shall reach its decisions by a majority of votes and its decisions are final and binding for each Contracting Party.
6. Each Contracting Party shall bear the costs of its own member of the tribunal. The cost of the chairman and the tribunal working cost shall be borne in equal parts by the Contracting Parties.

Article 10. Settlement of Disputes between a Contracting Party and an Investor of the other Contracting Party

1. Disputes between one of the Parties and an investor of the other Party shall be notified in writing, including a memorandum of detailed information, by the interested Party.
2. Disputes between the Contracting Party and an investor of the other Party are preferably settled amicably through diplomatic channels.
3. If these disputes cannot be settled within twelve months from the date of notification, the investor shall submit the dispute to either the competent courts of the Contracting Party in whose territory the investment is made, or to international arbitration.

Article 11. Most Favored Nation Provisions

Investors of both Contracting Parties shall be entitled to the most favored nation treatment with regards to subjects covered in this agreement, in the territory of the other Contracting Party.

Article 12.

1. This Agreement shall enter into force a month after the Contracting Parties exchange ratification documents.
2. This Agreement shall remain in force for a period of ten (10) years and shall continue being in force thereafter for a similar period or periods unless, 12 months before the expiration of the initial or any subsequent period, either Contracting Party notifies the other Contracting Party of its intention to denounce the Agreement.
3. In case of a notice of denunciation, the investments made as per this agreement shall remain effective for a period of ten (10) years from the date of termination.

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

Done in Cairo on 22 December 1997 in two originals in Arabic and French languages, all texts being equally authentic.

FOR THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT

FOR THE GOVERNMENT OF THE REPUBLIC OF GABON

Minister of Economy, Finance and Budget

Marcel Dobembi