

AGREEMENT BETWEEN THE GOVERNMENT OF THE LEBANESE REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF BELARUS ON THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the Lebanese Republic and the Government of the Republic of Belarus hereinafter referred to as the "Contracting Parties",

Desiring to encourage economic cooperation to the mutual benefit of both States,

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

Recognizing that the encouragement and contractual protection of such investments are apt to stimulate private business initiative and to increase the prosperity of both States,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1- The term "investor" means with regard to either Contracting Party:

- a) Natural persons who, according to the laws and regulations of that Contracting Party, are considered to be its nationals, and have made an investment in the territory of the other Contracting Party;
- b) Legal persons, which are constituted or otherwise duly organized under the laws and regulations of that Contracting Party, and have made an investment in the territory of the other Contracting Party.

2- The term "investment" means every kind of asset established or acquired by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the latter and shall include particularly, but not exclusively:

- a) Movable and immovable property as well as any other rights in rem, such as mortgages, liens, and pledges;
- b) Shares and other kinds of participation in legal persons;
- c) Claims to money which have been used to create an economic value or claims to any performance having an economic value;
- d) Intellectual property rights, such as copyrights, patents, industrial designs or models, trade or service marks, trade names, technical processes, know-how and goodwill, as well as other similar rights recognized by the laws of the Contracting Parties; and
- e) Business concessions under public law, including concessions to search, extract or exploit natural resources as well as all other rights given by law, by contract or by decision of the authority in accordance with the law.

Any alteration of the form in which assets are invested or reinvested shall not affect their character as investment. 3- The term "returns" means amounts yielded by an investment and in particular, though not exclusively, includes profits, dividends, interest, capital gains, royalties, management and technical assistance or other fees, irrespective of the form in which the return is paid.

4- The term "territory" means:

- a) With regard to the Lebanese Republic: the territory of the Lebanese Republic, including the territorial sea and the

economic exclusive zone as well as the continental shelf that extends outside the limits of the territorial waters over which the Lebanese Republic exercises, in accordance with internal and international law, jurisdiction and sovereign rights.

b) With regard to the Republic of Belarus: the territory of the Republic of Belarus over which the Republic of Belarus has sovereignty or exercises sovereign rights and jurisdiction in accordance with national and international law.

5- The term "laws and regulations" means laws and regulations of the Lebanese Republic and the Republic of Belarus accordingly.

Article 2. Promotion and Protection of Investments

1- Each Contracting Party shall in its territory promote investments by investors of the other Contracting Party and admit such investments in accordance with its laws and regulations.

2- When a Contracting Party shall have admitted an investment on its territory, it shall, in accordance with its laws and regulations, grant the necessary permits in connection with such an investment, including authorizations for engaging top managerial and technical personnel of their choice, regardless of nationality.

3- Each Contracting Party shall protect within its territory investments made in accordance with its laws and regulations by investors of the other Contracting Party and shall not impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment, extension, and disposal of such investments. Each Contracting Party shall ensure fair and equitable treatment to such investments.

Article 3. National Treatment and Most Favored Nation Treatment

1- Each Contracting Party shall accord in its territory:

a) To investments and returns of investments of investors of the other Contracting Party, a treatment not less favourable than that it accords to investments and returns of investments of its own investors, or to investments and returns of investments of investors of any third state, whichever is more favourable.

b) To investors of the other Contracting Party, as regard management, maintenance, use, enjoyment, extension and disposal of their investments, treatment not less favourable than that it accords to its own investors, or to investors of any third state, whichever is more favourable.

2- The provisions of this Article shall not be construed so as to oblige a Contracting Party to extend to the investors and investments of the other Contracting Party the advantages resulting from:

a) Any existing or future customs or economic union, a free trade area or regional economic organization, to which either of the Contracting Parties is or becomes a member; or

b) Any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation.

3- The provisions of paragraph 1 of this Article shall not be construed so as to oblige Lebanon to extend to the investors of the other Contracting Party the treatment granted to its own investor regarding ownership of real estate and other rights pertaining to real estate by virtue of the Decree-Law No. 11614, dated January 4, 1969 as amended.

Article 4. Expropriation and Compensation

1- Investments by investors of either Contracting Party shall enjoy full protection and security in the territory of the other Contracting Party.

2- Neither of the Contracting Parties shall take, either directly or indirectly, measures of expropriation, nationalization or any other measures having the same nature or the same effect (hereinafter referred to as "expropriation") against investments of investors of the other Contracting Party, unless the measures are taken in the public interest as established by law, on a non-discriminatory basis, and under due process of law, and against prompt, adequate, and effective compensation, according to the enforced national law without any kind of discrimination. Such compensation shall amount to the actual value of the investment expropriated immediately before the expropriation or before the impending expropriation became public knowledge, whichever is the earlier. The compensation shall be paid without delay and shall carry interest calculated on the LIBOR basis until the date of payment; it shall be effectively realizable and freely transferable. Such compensation shall be determined and paid in an appropriate manner at or prior to the date of

expropriation. The legality of any such expropriation and the amount of compensation shall be subject, in case of dispute, to review by a judicial or other independent authority of the Contracting Party making the expropriation in accordance with the principles set out in this Agreement.

3- The provisions of paragraph 2 of this Article shall also apply where a Contracting Party expropriates the assets of a legal person which is constituted under the laws and regulations of that Contracting Party in force in any part of its own territory and in which investors of the other Contracting Party own shares.

Article 5. Compensation for Damages or Losses

Investors of either Contracting Party whose investments suffer losses in the territory of the other Contracting Party owing to war or other armed conflict, revolution, a state of national emergency, or revolt, shall be accorded treatment, as regards restitution, indemnification, compensation or other valuable consideration, no less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State whichever is more favourable. Resulting payments shall be freely transferable.

Article 6. Free Transfer

1- Either Contracting Party shall guarantee that payments relating to investments made by investors of the other Contracting Party, may be freely transferred. Such transfers include in particular though not exclusively:

- a) Initial capital, and investment returns according to Article 1, paragraph 3 of this Agreement;
- b) Amounts relating to loans incurred, or other contractual obligations undertaken, for the investment;
- c) Proceeds accruing from the total or partial sale, alienation or liquidation of an investment;
- d) The earnings and other remunerations of foreign personnel who are allowed to work in connection with an investment in the territory of the other Contracting Party;
- e) Capital and additional amounts to maintain or increase the investment;
- f) Payment of compensation under Articles 4 and 5 of this Agreement; and
- g) Payments arising out of settlement of disputes under Articles 8 and 9 of this Agreement.

2- Each Contracting Party shall admit the investors of the other Contracting Party to the foreign exchange market in a non-discriminatory manner and shall allow to purchase the necessary foreign currency to make transfers pursuant to this Article, at the market rate of exchange applicable on the date of transfer.

3- Moreover, the Contracting Parties shall accord to transfers referred to in the present Article a treatment not less favourable than that accorded to transfers originated from investments made by investors of any third state.

Article 7. Principle of Subrogation

If either Contracting Party or its designated agency makes payment to one of its investors under any financial guarantee against non-commercial risks it has granted in regard of an investment in the territory of the other Contracting Party, the latter shall recognize the assignment, whether under a law or pursuant to a legal transaction, of any right or claim of that investor to the first Contracting Party or its designated agency.

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

1- In case of disputes regarding investments between a Contracting Party and an investor of the other Contracting Party, consultations will take place between the parties concerned with a view to solve the case, as far as possible, amicably.

2- If these consultations do not result in a solution within six months from the date of written request for settlement, the dispute may be submitted, at the investor's choice, for settlement to:

- a) The competent court of the Contracting Party in the territory of which the investment has been made; or
- b) The International Center for Settlement of Investment Disputes (ICSID) provided for by the Convention on the Settlement of Investment disputes between States and Nationals of the other States, opened for signature at Washington, on March 18,

1965, in case both Contracting Parties have become members of this Convention; or

The International Center for Settlement of Investment Disputes under the Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the Center (Additional Facility of Rules), if one of the Contracting Parties is not a Contracting State of the ICSID Convention; or

c) An ad hoc' arbitral tribunal which, unless otherwise agreed upon by the parties to the dispute, shall be established under the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL)

3- The choice of settlement made in accordance with paragraph 2 of this Article is final.

4- The arbitral tribunal shall decide the dispute in accordance with the provisions of this Agreement and the applicable rules and principles of International law. The awards of arbitration shall be final and binding on both parties to the dispute. Each Contracting Party shall carry out without delay any such award and such award shall be enforced in accordance with domestic law.

5- The Contracting Party which is a party to the dispute shall, at no time whatsoever during the procedures involving investment disputes, assert as a defense its immunity or the fact that the investor has received compensation under an insurance contract covering the whole or part of the incurred damage or loss.

Article 9. Settlement of Disputes between Contracting Parties

1- Disputes between Contracting Parties regarding the interpretation or application of the provisions of this Agreement shall be settled through diplomatic channels.

2- If both Contracting Parties cannot reach an agreement within six months from the start of the negotiations, the dispute shall, upon request of either Contracting Party, be submitted to an arbitral tribunal of three members. Each Contracting Party shall appoint one arbitrator, and these two arbitrators shall nominate a chairman who shall be a national of a third State.

3- If one of the Contracting Parties has not appointed its arbitrator and has not followed the invitation of the other Contracting Party to make that appointment within two months, the arbitrator shall be appointed upon the request of that Contracting Party by the President of the International Court of Justice.

4- If both arbitrators cannot reach an agreement about the choice of the chairman within two months after their appointment, the latter shall be appointed upon the request of either Contracting Party by the President of the International Court of Justice.

5- If, in the cases specified under paragraphs 3 and 4 of this Article, the President of the International Court of Justice is prevented from carrying out the said function or if he is a national of either Contracting Party, the appointment shall be made by the Vice-President, and if the latter is prevented from carrying out the said function or if he is a national of either Contracting Party, the appointment shall be made by the most senior Judge of the International Court of Justice who is not national of either Contracting Party.

6- The tribunal shall reach its decision by a majority of votes.

7- The tribunal shall issue its decision on the basis of respect for the law, the provisions of this Agreement, as well as of the universally accepted principles of international law.

8- Subject to other provisions made by the Contracting Parties, the tribunal shall determine its procedure.

9- Each Contracting Party shall bear the cost of the arbitrator it has appointed 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 arbitration tribunal may make a different regulation concerning costs.

10- The decisions of the tribunal are final and binding for each Contracting Party.

Article 10. Other Obligations

1- If the legislation 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 a provision, whether general or specific, entitling investments by investors of the other Contracting Party to treatment more favourable than is provided for by this Agreement, such a provision shall, to the extent that it is more favourable, prevail over this Agreement.

2- Each Contracting Party shall observe any other obligation it has assumed with regard to investments in its territory by investors of the other Contracting Party.

Article 11. Application of the Agreement

The present Agreement shall apply to investments in the territory of a Contracting Party made in accordance with its laws and regulations by investors of the other Contracting Party prior to as well as after the entry into force of this Agreement. The Agreement shall not apply to disputes which have arisen before its entry into force.

Article 12. Relations between Governments

This Agreement shall be in force irrespective of whether or not diplomatic or consular relations exist between the Contracting Parties.

Article 13. Final Provisions

1- This Agreement shall enter into force on the thirtieth day after the day of exchange of notifications by the Contracting Parties that their constitutional requirements for the entry into force of this Agreement have been fulfilled.

2- This Agreement shall remain in force for a period of ten years. Thereafter, it shall remain in force for an unlimited period unless either Contracting Party shall notify the other in writing, twelve months in advance, of its intention to terminate this Agreement.

3- In case of official notice of intention to terminate the present Agreement, the provisions of Article 1 to 12 shall continue to be effective for a further period of ten years, from the date of its termination, for investments made before official notice was given.

IN WITNESS WHEREOF the Undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Beirut on the 19th of June 2001, in two original copies, each in the Arabic, Russian and English languages, all texts being equally authentic. The text in the English language shall prevail in case of difference of interpretation.

FOR THE GOVERNMENT OF FOR THE GOVERNMENT OF THE LEBANESE REPUBLIC THE REPUBLIC OF BELARUS