

# **AGREEMENT BETWEEN THE GOVERNMENT OF THE STATE OF ISRAEL AND THE GOVERNMENT OF THE ORIENTAL REPUBLIC OF URUGUAY FOR THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS**

The Government of the State of Israel and the Government of the Oriental Republic of Uruguay (hereinafter: the "Contracting Parties");

DESIRING to intensify economic cooperation to the mutual benefit of both countries;

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 reciprocal promotion and protection of investments on the basis of the present Agreement will be conducive to the stimulation of individual business initiative and will favour the expansion of the economic relations between the Two Contracting Parties,

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, as well as any other rights in rem, in respect of every kind of asset;

(b) Rights derived from shares, bonds and other kinds of interests in companies;

(c) Claims to money, goodwill and other assets and to any performance having an economic value;

(d) Rights in the field of intellectual property, technical processes and know-how;

(e) Business concessions conferred by law, by administrative decisions, or under contract, 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, does not affect their character as investments within the meaning of this Agreement.

3. The term "investor" shall comprise: (a) Natural persons who are nationals or permanent residents of the Contracting Party concerned 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 yielded by an investment including, but not limited to: dividends, profits, sums received from the total or partial liquidation of an investment, interest, capital gains, royalties or fees.

5. The term "territory" shall mean with respect to each Contracting Party, the territory of that Contracting Party including the territorial sea, as well as the continental shelf and the exclusive economic zone over which that Contracting Party exercises sovereign rights or jurisdiction in conformity with the international law.

6. The term "freely usable currency" shall mean a currency that the International Monetary Fund determines, from time to

time, as a freely usable currency in accordance with the Articles of Agreement of the International Monetary Fund and Amendments thereto.

## **Article 2. Promotion and Protection 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 law, 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 other Contracting Party. 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.

3. Each Contracting Party shall, subject to and in accordance with its laws and regulations, and procedures and practice thereunder, consider favourably questions concerning entry, stay, work and movement in its territory of nationals of the other Contracting Party who carry out activities connected with the investments as defined in this Agreement, and of the members of their families forming part of their household.

## **Article 3. Most Favoured Nation and National Treatment**

Neither Contracting Party shall, in its territory, subject investments or returns of investors of the other Contracting Party to treatment less favourable than that which it accords to investments or returns of its own investors or to investments or returns of investors of any third State.

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 favourable than that which it accords to its own investors or to investors of any third State. The provisions of this Agreement relative to the grant of treatment not less favourable than that 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 existing or future customs union, free trade area agreement or similar international agreement to which either Contracting Party is or may become a party.

## **Article 4. Expropriation**

Investments of investors of either Contracting Party shall not be nationalised, expropriated or subjected to measures having effect equivalent to nationalisation 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, in accordance with the laws and regulations of that Contracting Party, on a non-discriminatory basis and against prompt, adequate and effective 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 at the applicable rate provided by law by that Contracting Party until the date of payment, shall be made without delay, be effectively realisable 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.

## **Article 5. Compensation for Losses**

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, as regards restitution, indemnification, compensation or other settlement, no less favourable than that which the latter Contracting party accords to its own investors or to investors of any third State. Resulting payments shall be made without delay, and shall be freely transferable in a freely usable currency.

## **Article 6. Repatriation of Investments and Returns**

Each Contracting Party shall, in respect of investments, guarantee to investors of the other Contracting Party the rights to unrestricted transfer of their investments and returns in accordance with the following terms:

1. Transfers shall be effected without delay in the freely usable currency in which the capital was originally invested or in any other freely usable currency agreed by the investor and the Contracting Party concerned: provided that the investor has complied with all his fiscal obligations and that the repatriation is in accordance with the exchange regulations established by the Contracting Party in whose territory the investment was made.
2. In the event the exchange regulations of one Contracting Party are modified, that Contracting Party guarantees that such modifications shall not adversely affect the rights to repatriate investments and returns, as were in force at the time the investment was made.
3. 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. Settlement of Investment between a Contracting Party and an Investor**

1. Any dispute which may arise between an investor of one Contracting party and the other Contracting Party in connection with an investment made in the territory of the latter shall be subject to amicable negotiations between the parties to the dispute.
2. If any such dispute cannot thus be settled within a period of six (6) months from notification of the dispute, the investor shall be entitled to submit the dispute either to:
  - (a) A court of competent jurisdiction of the Contracting party in whose territory the investment was made; or
  - (b) International arbitration, in accordance with Paragraph 3 of this Article.

The choice of one or the other of the above mentioned procedures by an investor shall be final, unless the parties to the dispute agree otherwise.

3. In case of an international arbitration the dispute shall be submitted, at the investor's choice, to:
  - (a) The International Centre for the Settlement of Investments Disputes (ICSID) having regard to the applicable provisions of the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States, opened for signature in Washington, D.C. on March 18, 1965; until the provisions of the said convention are ratified by the Oriental Republic of Uruguay, the dispute may be submitted to arbitration under the regulations of the ICSID Additional Facility for the Administration of Conciliation, Arbitration and Fact-Finding Proceedings; or
  - (b) An international ad hoc arbitral tribunal, which shall be established in accordance with the principles outlined in Article 8 of this Agreement.
4. The Contracting Parties hereby consent to the submission of any investment dispute for settlement by binding arbitration in accordance with the choice of the investor under the provisions of this Article.
5. The arbitral tribunal shall decide a dispute in accordance with such rules of law as may be agreed by the parties. In the absence of such agreement, the tribunal shall apply the law of the Contracting party involved in the dispute, including its rules on conflict of laws, and such rules of international law as may be applicable.
6. All arbitral awards shall be final and binding on the parties to the dispute.
7. All sums received or payable as a result of a settlement shall be freely transferable in a freely usable currency.

## **Article 8. 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 Contracting 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 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 State who, on approval by the two 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, within the periods specified in Paragraph (3) of this Article, the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invite the Secretary General of the Permanent Court of Arbitration at the Hague (hereinafter; the "PCA") to make any necessary appointments. If the Secretary General of the PCA is a national of either Contracting party or is otherwise prevented from discharging the said function, then the Deputy Secretary General of the PCA 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. 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 9. Subrogation**

If one Contracting Party or its designated Agency (hereinafter: the "First Contracting Party") makes a payment under an indemnity contract in respect of an investment in the territory of the other Contracting party (hereinafter: the "Second Contracting Party"), the Second Contracting party shall recognise:

(a) The assignment to the First Contracting Party by law or by legal transaction of all the 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, and shall assume the obligations related to the investment.

## **Article 10. 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 one Contracting Party to a treatment more favourable than is provided for by the present Agreement, such rules shall to the extent that they are more favourable prevail over the present Agreement.

## **Article 11. Application of the Agreement**

The provisions of this Agreement shall apply to all investments whether made before or after the entry into force of this Agreement, but shall not apply to any claim or dispute which arose before its entry into force.

## **Article 12. Entry Into Force**

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

## **Article 13. Duration and Termination**

This Agreement shall remain in force for a period of ten (10) years. Thereafter it shall continue in force until the expiration of twelve (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 ten (10) years after the date of termination and without prejudice to the application thereafter of the rules of general international law.

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

Done in Jerusalem on the 30 day of the month of March, 1998, which corresponds to the 3rd day of the month of Nissan,

5758, in two original copies in the Hebrew, Spanish and English languages, all texts being equally authentic.

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

For the Government of the State of Israel

For the Government of the Oriental Republic of Uruguay

ON THE SIGNING of the Agreement between the Government of the State of Israel and the Government of the Oriental Republic of Uruguay, for the Reciprocal Promotion and Protection of Investments; and

TAKING INTO CONSIDERATION the provisions of Article 6 of the Agreement for the Promotion and Reciprocal Protection of Investments entered into by the Government of the State of Israel with the Governments of Poland, Hungary and Romania in 1991;

The Parties have agreed on the following provisions, which shall constitute an integral part of the Agreement:

The provisions of Article 3 of the Agreement for the Reciprocal Promotion and Protection of Investments shall not be construed so as to oblige the State of Israel to extend to investors of the Oriental Republic of Uruguay the benefits of any treatment, preference resulting from the definitions of "investment" or "reinvestment" and the provisions of Article 6 contained in the Agreements for the Promotion and Reciprocal Protection of Investments entered into by the Government of the State of Israel with the Governments of Poland, Hungary and Romania in 1991.

The Government of the State of Israel shall notify the Government of the Oriental Republic of Uruguay without delay, in the event the Agreements are appropriately modified so as to render this Annex unnecessary. Upon such notification this Annex shall become null and void.

Done in Jerusalem on the 30 day of the month of March, 1998, which corresponds to the 3rd day of the month of Nissan, 5758, in two original copies in the Hebrew, Spanish and English languages, all texts being equally authentic.

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

For the Government of the State of Israel

For the Government of the Oriental Republic of Uruguay