Agreement between the French Republic and the State of the United Arab Emirates on the reciprocal encouragement and protection of investments

The Republic of France and the State of the United Arab Emirates hereinafter referred to as "the Contracting Parties",

Desiring to strengthen economic cooperation between the two States and to create favorable conditions for French investments in the United Arab Emirates and Emirati investments in France,

Convinced that the encouragement and protection of such investments are likely to stimulate the transfer of capital and technology between the two countries in the interest of their economic development,

Have agreed on the following provisions:

Article 1. Definitions

For the purposes of this Agreement

1. The term "investment" means assets such as property, rights and interests of every kind and, more particularly but not exclusively

(a) Movable and immovable property as well as all other real rights such as mortgages, liens, usufructs, bonds and similar rights;

(b) Shares, share premiums and other forms of participation, even if minority or indirect, in companies incorporated in the territory of one of the Contracting Parties;

(c) Bonds, debts and rights to all benefits of economic value;

(d) copyrights, industrial property rights (such as patents, licenses, trademarks, industrial designs and models), technical processes, registered names and goodwill

(e) concessions granted by law or under contract, including concessions relating to the exploration, cultivation, extraction or exploitation of natural resources, including those in the maritime area of the Contracting Parties, provided that such assets shall be or have been invested in accordance with the laws of the Contracting Party in whose territory or maritime area the investment is made, whether before or after the entry into force of this Agreement.

Any change in the form of investment of the assets shall not affect their characterization as an investment, provided that such change is not contrary to the law of the Contracting Party in whose territory or maritime area the investment is made.
2. The term "investor" means any national or company of either Contracting Party or the Government of either Contracting Party.

3. Nationals" means natural persons possessing the nationality of one of the Contracting Parties.

4. Company" means any legal person incorporated in the territory of one of the Contracting Parties in accordance with the laws of that Party and having its registered office there, or controlled directly or indirectly by nationals of one of the Contracting Parties, or by legal persons having their registered office in the territory of one of the Contracting Parties, or by legal persons having their registered office in the territory of one of the Contracting Parties and incorporated in accordance with the laws of the latter.

5. The term "income" means all sums produced by an investment, such as profits, royalties, dividends, capital gains or interest, during a given period.

The income from the investment and, in the case of reinvestment, the income from its reinvestment shall enjoy the same

protection as the investment.

6. The term "associated activities" means all activities relating to the management, maintenance, enjoyment and liquidation of the investments, in particular the organization, control, operation, maintenance and disposal of legal entities, subsidiaries, branches, offices, factories or other facilities for the conduct of business, the acquisition, use, protection and disposal of property in all its forms, including intellectual and industrial property rights as well as the borrowing of funds, the purchase and issuance of shares and the purchase of foreign currency for import, in accordance with national regulations and customs.

7. This Agreement shall apply to the territory of each Contracting Party and to the maritime area of each Contracting Party, hereinafter defined as the economic zone and the continental shelf which extend beyond the limits of the territorial waters of each Contracting Party and over which they have, in accordance with international law, sovereign rights and jurisdiction for the purpose of exploring, exploiting and preserving natural resources.

Article 2. Encouragement of Investments

Each Contracting Party shall, within the framework of its legislation and the provisions of this Agreement, admit and encourage investments made by investors of the other Party in its territory and in its maritime zone.

Article 3. Fair and Equitable Treatment

Each Contracting Party undertakes to ensure, in its territory and in its maritime zone, fair and equitable treatment, in accordance with the principles of international law, to investments of investors of the other Party, excluding any unfair or discriminatory measure which might hinder in law or in fact the management, maintenance, enjoyment or liquidation of such investments.

Article 4. National Treatment and Most-favoured-nation Clause

Each Contracting Party shall apply to investors of the other Party in its territory and maritime zone, in respect of their investments and related activities, treatment no less favourable than that accorded to its investors, or the treatment accorded to investors of the most favoured nation, whichever is more favourable. In this connection, nationals authorized to work in the territory and maritime area of one of the Contracting Parties shall be accorded appropriate material facilities for the exercise of their professional activities.

This treatment shall not, however, extend to privileges which a Contracting Party grants to investors of a third State by virtue of its participation in or association with a free trade area, a customs union, a common market or any other form of regional economic organization.

Article 5. Specific Commitments

Investments which have been the subject of a special commitment by one of the Contracting Parties to investors of the other Contracting Party shall, without prejudice to the provisions of this Agreement, be governed by the terms of that commitment insofar as it contains provisions more favourable than those provided for in this Agreement.

Article 6. Expropriation, Nationalization and Dispossession Measures

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

2. The Contracting Parties shall not take measures of expropriation or nationalization or any other measures of whatever nature and scope, the effect of which is to dispossess, directly or indirectly, the investors of the other Party of investments belonging to them in their territory and in their maritime zone, except in the public interest and provided that such measures are implemented in accordance with their legislation and are not discriminatory or contrary to any particular undertaking.

Any measures of dispossession which may be taken shall give rise to the payment of prompt and adequate compensation, the amount of which, calculated on the real value of the investments concerned, shall be assessed in relation to a normal economic situation prior to any threat of dispossession.

This indemnity, its amount and the terms of its payment are fixed at the latest on the date of dispossession. This

compensation is effectively realizable, paid to the designed investor without delay and freely transferable. Until the date of payment, it shall bear interest at the rate agreed upon by the Contracting Parties.

3. The investors of one of the Contracting Parties whose investments have suffered losses due to war or any other armed conflict, revolution, state of national emergency or revolt or any other situation having a similar effect occurring in the territory or maritime area of the other Contracting Party, shall be accorded by that Party treatment no less favourable than that accorded to its own investors or to those of the most fa

Article 7. Transfers

Each Contracting Party shall, in the territory or maritime area of which investments have been made by nationals or companies of the other Contracting Party, grant to such investors the free transfer of

(a) interest, dividends, profits and other current income ;

(b) royalties derived from intangible rights designated in paragraph 1(d) and (e) of Article 1;

c) Payments made for the repayment of loans regularly contracted;

d) Proceeds from the sale or liquidation of the investment, in whole or in part, including capital gains on the investment;

(e) compensation for loss or loss of possession as provided for in Article 6, paragraphs 2 and 3 above.

Nationals of each Contracting Party who have been authorized to work in the territory or maritime area of the other Contracting Party under an agreed investment shall also be authorized to transfer to their country of origin an appropriate portion of their remuneration.

The transfers referred to in the preceding paragraphs shall be effected without delay at the normal rate of exchange officially applicable on the date of transfer.

Article 8. Investment Guarantees

To the extent that the regulations of one of the Contracting Parties provide for a guarantee for investments made abroad, such guarantee may be granted, on a case-by-case basis, to investments made by nationals or companies of that Party in the territory or maritime zone of the other Party.

Investments made after the entry into force of this Agreement by nationals or companies of one of the Contracting Parties in the territory or maritime zone of the other Party shall not be entitled to the guarantee referred to in the foregoing paragraph unless they have first obtained the approval of that other Party.

Article 9. Settlement of Investment Disputes

1. Any dispute relating to investments between one of the Contracting Parties and an investor of the other Contracting Party shall, as far as possible, be settled amicably between the two parties concerned.

2. If such a dispute has not been settled within six months from the time it was raised by either party to the dispute, it shall, at the request of either party, be submitted to arbitration by the International Centre for Settlement of Investment Disputes (ICSID) established by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, signed at Washington on March 18, 1965.

3. In case the agreement mentioned in the previous paragraph is not applicable, the dispute shall be governed by an ad hoc arbitration. The ad hoc arbitration tribunal shall be constituted in the following manner:

(a) Each Party to the dispute shall appoint one member, and the two members shall appoint, by mutual consent, a national of a third State who shall be appointed chairman by both Parties. All members shall be appointed within two months of the date on which one Party notifies the other Party of its intention to submit the dispute to arbitration;

(b) If the time limits set forth in the preceding paragraph have not been observed, either Party shall, in the absence of any applicable agreement, invite the President of the International Chamber of Commerce of Paris to make the necessary appointments;

(c) The arbitral tribunal shall take its decisions by a majority vote. Such decisions shall be final and binding on the Parties.

The Tribunal shall determine its own rules. It shall interpret the award at the request of either Party. Unless the Tribunal

provides otherwise, taking into account particular circumstances, the costs of the arbitration proceedings, including the fees of the arbitrators, shall be shared equally by the Parties.

Article 10. Subrogation

If one of the Contracting Parties, by virtue of a guarantee given in accordance with Article 8 of this Agreement for an investment made in the territory or maritime area of the other Party, makes payments to one of its nationals or to one of its companies, it shall thereby be subrogated to the rights and actions of such national or company.

Such payments shall not affect the rights of the beneficiary of the guarantee to have recourse to ICSID or to pursue the actions brought before it until the proceedings have been completed.

Article 11. Consultations

Each Contracting Party may propose to the other Contracting Party consultations on any matter relating to this Agreement, its interpretation and its implementation. The other Contracting Party shall take all appropriate measures to make such consultation possible at an early date.

Article 12. Settlement of Disputes between Contracting Parties

1. Disputes concerning the interpretation or application of this Agreement shall be settled, if possible, through diplomatic channels.

2. If the dispute is not settled within six months of the date on which it was raised by either Contracting Party, it shall be submitted, at the request of either Contracting Party, to an arbitration tribunal.

3. The said tribunal shall be constituted for each particular case in the following manner:

Each Contracting Party shall appoint one member, and the two members shall designate, by mutual agreement, a national of a third State who shall be appointed chairman by both Contracting Parties.

All members shall be appointed within two months from the date on which one Contracting Party has notified the other Contracting Party of its intention to submit the dispute to arbitration.

4. If the time limits set forth in paragraph 12.3 above have not been observed, either Contracting Party shall, in the absence of any agreement, invite the Secretary-General of the United Nations to make the necessary designations. If the Secretary-General is a national of either Contracting Party or is otherwise prevented from serving in that capacity, the most senior Deputy Secretary-General who is not a national of one of the Contracting Parties shall make the necessary appointments.

5. The arbitration tribunal shall take its decisions by a majority vote. Such decisions shall be final and binding on the Contracting Parties.

The tribunal shall determine its own rules of procedure. It shall interpret the award at the request of either Contracting Party. Unless the Tribunal provides otherwise, taking into account particular circumstances, the costs of the arbitration proceedings, including the fees of the arbitrators, shall be shared equally by the Parties.

Article 13. Entry Into Force, Duration and Termination

Each of the Parties shall notify the other of the completion of the internal procedures required for the entry into force of this Agreement, which shall take effect one month after the date of receipt of the last notification.

The Agreement is concluded for an initial period of ten years. It shall remain in force after that period unless either Party denounces it through diplomatic channels with one year's notice.

Upon the expiration of the period of validity of this Agreement, investments made while it was in force shall continue to enjoy the protection of its provisions for an additional period of twenty years.

Done in Paris, on September 9, 1991, in two originals, each in the French and Arabic languages, both texts being equally authentic.

For the French Republic :

ROLAND DUMAS,

Minister of State, Minister of Foreign Affairs

For the State of the United Arab Emirates :

CHEIKH ZAYED,

President of the State of the United Arab Emirates

PROTOCOL

Upon the signing of the Agreement between the French Republic and the State of the United Arab Emirates on the Reciprocal Encouragement and Protection of Investments, it was agreed that the interpretation of this Agreement shall be as follows

1. With regard to Article 1, paragraph 2 :

With regard to the United Arab Emirates, the term "Government" means the Federal Government and the local authorities of the United Arab Emirates.

2. With regard to Article 3:

(a) It is understood that the Contracting Parties shall consider as de jure or de facto impediments to fair and equitable treatment any restriction on the procurement and transportation of raw and auxiliary materials, as well as of means of production and operation of any kind, any unfair and discriminatory impediment to the sale and transportation of products within the country and abroad, and any other measures having a similar effect;

(b) The Contracting Parties shall, within the framework of their domestic legislation, give sympathetic consideration to applications for entry and authorization to reside, work and travel submitted by nationals of one Contracting Party in connection with an investment in the territory of the other Contracting Party.

3. With regard to Article 6:

The rate of interest agreed upon by the Contracting Parties shall be the official rate of interest of the Special Drawing Right, as fixed by the IMF.

The foregoing provisions form an integral part of this Agreement.

Done in Paris on September 9, 1991, in two originals, each in the French and Arabic languages, both texts being equally authentic.

For the French Republic:

ROLAND DUMAS,

Minister of State, Minister of Foreign Affairs

For the State of the United Arab Emirates :

CHEIKH ZAYED,

President of the State of the United Arab Emirates