

# **Agreement between the Government of the Lebanese Republic and the Government of the Arab Republic of Syria on Encouragement and Reciprocal Protection of Investment**

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

Believing in the importance of promoting cooperation and integration existing between them, and based on what was stated in the the Treaty of Brotherhood, Cooperation and Coordination concluded between them in 1991, and implementing what was stipulated in the economic and social cooperation agreement signed between them in 1993, and building on the mutual desire to strengthen the investment activity in their countries by creating the necessary investment climate for Lebanese and Syrian investors and businessmen,

In order to encourage them to establish and establish investment projects that will support economic development in both countries,

Have agreed as follows:

## **Article 1. Definitions**

For purposes of this Agreement, the words and expressions contained in this Agreement shall mean the following, unless the context requires another meaning:

1. The term "investments" means all types of assets owned by a party investor. It means contracting and investing in the territory of the other Contracting Party in accordance with the laws and regulations of the latter. The term "investments" include in particular, but it is not limited to:

A. Movable and immovable property, as well as collateral relating thereto, such as mortgages, real estate, other liens and mortgages and any other similar rights.

B. Shares, shares and bonds of companies and securities.

C. Claims for funds used to create economic value or performance of economic value.

D. Intellectual property rights, such as the rights of copyright, patents, industrial designs or models, trademarks, trade names and methods of production technology and technical expertise, and reputation, as well as other similar rights recognized by the laws of the contracting parties.

e. Business privileges granted by law or contract, including search privileges on natural resources, their development, extraction or exploitation.

Any modification in the form of investment of assets as an investment shall not prejudice, provided that this is not the case the amendment is contrary to the legislation of the Contracting Party in the territory on which such investment was made.

2. The term "investor" means:

A. Natural persons of the nationality of a Contracting Party in accordance with its laws,

B. Legal persons established in accordance with the laws and regulations of either party such as private and joint companies, associations and businesses, individual enterprises,

C. Either Contracting Parties or their public institutions,

Who have made an investment in the territory of the other Contracting Party in accordance with the laws and regulations in

force.

3. The term "proceeds" means the net amounts resulting from the investment, which include but are not limited to profits, dividends, interests and capital gains, salaries and receipts for administrative work, technical assistance or other allowances.

4. The term "territory" means:

A. For the Syrian Arab Republic :

The territory of the Syrian Arab Republic, in accordance with international law, including its internal waters, its territorial sea and subsoil and the airspace above it where Syria exercise sovereign rights over them and other maritime areas for which Syria has the right to exercise sovereign rights for exploration, exploitation and conservation of natural resources.

B. For the Republic of Lebanon :

The territory of the Republic of Lebanon, including the territorial sea and the economic zone, as well as the continental shelf that extends beyond the limits of territorial waters where Lebanon has sovereign rights or exercised sovereignty, in accordance with domestic law and international law.

## **Article 2. Promotion and Admission of Investments**

1. Both Contracting Parties shall encourage and create favorable conditions for investors of the Party to invest in its territory and accept these investments according to their laws and regulations.

2. Both Contracting Parties shall provide the necessary facilities and permits for entry, exit, residence and employment of the Investor and those whose business relates permanently or temporarily to the investment of experts, technicians, technicians and workers regardless of nationality, in accordance with the legislation and laws in force in the host Contracting Party.

3. Each Contracting Party shall, within its territory, protect investments made in accordance with its laws and regulations by investors of the other Contracting Party and not cause harm through illegal or discriminatory procedures for the management, continuation, use, exercise, extension, sale or liquidation of such investments. These investments also enjoy full and comprehensive protection and security.

4. Each Contracting Party shall apply its tax legislation without any discrimination.

## **Article 3. Most-favoured Nation (mfn) and National Treatment**

1. Each Contracting Party shall ensure fair and equitable treatment within its territory of investments by investors of the other Contracting Party. This treatment shall not be less favorable than those granted by each Contracting Party to the investments made within its territory by its own investors or by any Contracting Party, of investments made within its territory by investors of any third country, if such treatment is finally more favorable.

2. The MFN treatment shall not be interpreted as obligating a Contracting Party to extend to the investors and investments of the other Contracting Party the advantages resulting from any existing customs or economic union or to be established in the future, a free trade area or a regional economic organization, to which either Contracting Party may become a member.

Such treatment shall not prejudice any advantage given by any Contracting Party to investors from a third country under an agreement to avoid double taxation or other agreements on a reciprocal basis in tax matters.

3. The provisions of paragraph (1) of this Article shall not be interpreted as to oblige either party to grant to investments and investors of the other Contracting Party the ownership of real property rights and other in-kind rights.

## **Article 4. Nationalization and Expropriation**

1. The investments of investors of either Contracting Party shall not be subject to expropriation, nationalization or confiscation or other measures having a similar effect, directly or indirectly (hereinafter referred to as the "Expropriation") in the territory of the other Contracting Party, except if it is in accordance with the law and in public benefit, on a non-discriminatory basis and in exchange for fair compensation in accordance with legal procedures and without delay.

2. Compensation shall be equivalent to the real market value of the expropriated investment immediately prior to the date of the expropriation decision or the date of its declaration, in accordance with a normal economic situation and prior to any threat of expropriation. Payment of compensation is due without delay and it enjoys the freedom of transfer and includes

interest at a fair and equitable rate, however it must not be less than the interest rate prevailing in London over a six-month period from the date of actual expropriation until the date of payment.

3. Without prejudice to the rights of the investor under the provisions of Article 7 of this Agreement, an investor whose investments are subject to expropriation shall be entitled in accordance with the legislation of the Contracting Party that has taken this action, to request a review by a judicial authority or other independent authority of that Party, in the assessment of compensation due to him in accordance with the rules provided for in this Article. The Contracting Party which has taken the expropriation action shall make an effort to ensure full review.

4. In the event that one of the Contracting Parties expropriates the assets of a company that has been created or made its establishment in accordance with the legislation in force in any part of its territory and its shares are owned by the other Contracting Party's investors, the provisions of paragraph (1) of this Article shall be applied so as to provide for fair and equitable compensation for investments of investors of the other Contracting Party holding the shares.

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

In the case of losses of investment by the investors of one of the Contracting Parties in the territory of the other Contracting Party as a result of war, other armed conflicts, national emergency or civil unrest, investors of that other Contracting Party shall be accorded a treatment no less favorable than that accorded to its investors or investors of a third State in respect of compensation and restitution to its owners and any form of settlement, and enjoy any payments made under this Article.

## **Article 6. Transfer of Funds**

Freely conversion of capital and revenues

Each Contracting Party shall permit the transfer of the capital and the proceeds of the investment in its territory to the currency in which it was originally issued or in any freely convertible currency without delay.

The conversion shall take place at the rate of exchange prevailing at the date of such transfer, including for example:

- A. Capital invested including reinvested returns for the purpose of maintaining or increasing investment.
- B. Profits or dividends, interest or other proceeds due on investment.
- C. Funds resulting from the total or partial liquidation of the investment.
- D. Payment of loan installments and interest obtained for the purpose of financing or expanding the investment in accordance with the laws and regulations in force in both Contracting Parties.
- E. Compensation referred to in Articles 4 and 5 of this Agreement.
- F. Payments made for any investment-related disputes.
- G. Salaries, wages and other fees received by employees of investment projects from a Contracting Party situated on the territory of the other Contracting Party.

## **Article 7. Subrogation**

Where a Contracting Party or its designated agent guarantees the investments of investors of the other Contracting Party established in its territory against non-commercial risks and makes payments to such investors for the settlement of their requirements in accordance with this Agreement, the other party agrees to recognize the right of the first Contracting Party or its appointed agent under the principle of subrogation, and the direct rights and claims shall not to exceed the rights and claims of these investors.

## **Article 8. Settlement of Investment Disputes between the Investor and the Host State**

1. Any legal disputes arising under this Agreement from an investment between any Contracting Party and an investor of the other Contracting Party shall be settled amicably between the parties concerned.

2. If such dispute is not settled in accordance with the provisions of paragraph (1) of this Article within a period of six months from the date of the request for settlement in writing, the investor may submit the dispute to any of the following:

- A. The competent court of the Contracting Party which is the host of the investment.

B. The competent authorities to settle disputes in accordance with the 1980 Unified Agreement for the Investment of Arab Capital in the Arab States

C. The International Center for the Settlement of Investment Disputes (ICSID) established under the Convention for the settlement of investment disputes between States and citizens of other States, which was concluded in Washington on 18 March 1965, if this Convention is applicable, or the Additional Facility Rules for the administration of the proceedings by the Center's secretariat (Additional Facility Rules) if the Contracting State of the investor or the contracting State is a party to the dispute but not both are parties at the International Center for Settlement of Investment Disputes.

D. A special "ad hoc" arbitration which shall be formed as follows:

1. Each party to the dispute shall appoint one arbitrator and shall select the arbitrators concerned by mutual agreement, a third arbitrator of a third country who has diplomatic relations with the Contracting Parties as Chairman of the Commission. All arbitrators shall be appointed within two months from the date of notifying the investor of his desire to submit the dispute to arbitration.

2. If appointments are not made during the period referred to in paragraph 2(d)(1) of this Article, in the absence of another agreement, either party to the dispute shall have the right to require such appointments from the President of the International Court of Justice or his or her successor or the next judge in the seniority that is a non-national of either Contracting Party.

3. The arbitral tribunal shall issue its decisions by a majority vote and its decisions shall be final, legally binding on both parties and shall be implemented in accordance with the laws of the Contracting Party to which it is a party to the dispute and shall make its decisions in accordance with the provisions of this Agreement and the laws of the Contracting Party which is the party to the dispute and the general principles of the law.

4. The arbitral tribunal shall explain its decision and its reasons at the request of either party.

5. Unless otherwise agreed between the parties, the place of arbitration of the dispute shall be The Hague (Netherlands).

6. Subject to the above, the arbitral tribunal shall apply the Arbitration Rules to the United Nations Commission on Trade Law (UNCITRAL 1976).

Once the investor chooses one of the previous settlement methods, he is not entitled to choose the other mechanisms.

## **Article 9. Settlement of Disputes between the Contracting Parties**

1. The Contracting Parties shall endeavor, in good faith and in a spirit of cooperation, to reach an urgent settlement of a dispute. The Contracting Parties shall enter into direct and meaningful negotiations to reach such a settlement. If the Contracting Parties have not reached an agreement within six months of the date of the dispute, the dispute may be submitted at the request of either party Contractors to a three-member arbitral tribunal.

2. Each Contracting Party shall, within two months from the date of receipt of the request, appoint an arbitrator and these two arbitrators shall choose the President of the arbitral tribunal who shall be nationals of a third State having diplomatic relations with the Contracting Parties. In the event that either Contracting Party fails to appoint an arbitrator within the specified period, the other Contracting Party may request the President of the International Court of Justice to appoint such arbitrator.

3. If the two arbitrators do not reach agreement on the selection of the President within two months of their appointment, the President shall, at the request of either Contracting Party, be appointed by the President of the International Court of Justice.

4. If the President of the International Court of Justice is unable to perform the task provided for in the paragraphs (2) and (3) of this Article, or if the President of the International Court of Justice is national of one of the Contracting Parties, the decision to appoint shall be taken by the Vice-President of the International Court of Justice. If there are any impediments to the performance of the Vice-President for that task or if he is a national of one of the Contracting Parties, the appointment decision shall be made by a member of the Court next in seniority, who is not a national of either Contracting Party.

5. The arbitral tribunal shall issue its decisions by a majority vote and its decisions shall be final and binding for the Contracting Parties. For its proceedings, the Court shall apply the UNCITRAL Arbitration Rules. The provisions of this Agreement and the provisions of the law shall apply to the subject matter of dispute. The arbitration venue shall be The Hague (Netherlands) or Stockholm (Sweden).

6. All applications shall be submitted and all hearings shall be completed within eight months from the date of the selection of the third arbitrator unless otherwise agreed. The Commission shall issue its decision within two months from the date of submission of the final applications or the closing date of the hearing, whichever is later.

The Contracting Parties shall bear the expenses of the President and the arbitrators equally between them, as well as others costs of the proceedings. However the arbitral tribunal may decide that one of Contracting parties have a higher proportion of costs.

## **Article 10. Limitations of the Agreement**

This Agreement is not restricted by:

- A. Provisions of laws, procedures and administrative decisions, judicial decisions and obligations of either Contracting Party
- B. The special obligations of the Contracting Party to the Investor and the Investor, including those contained in an investment agreement or an investment license, when they have authorized investments or activities related to a more favorable treatment than those granted by this Agreement in similar situations.

## **Article 11. Exceptions to the Agreement**

1. This Agreement shall not preclude the application by either Contracting Party of the necessary procedures to maintain public order or to fulfill its obligations to maintain or restore peace and security, or to protect its fundamental security interests.
2. This Agreement shall not preclude any Contracting Party from taking any special procedures relating thereto to establish investments, provided that they do not prejudice any of the principles and rules provided for In this Agreement.

## **Article 12. Scope of Application of the Agreement**

Upon entry into force of this Agreement, the provisions shall also apply to investments made in the territory of a Contracting Party in accordance with its laws and regulations, by investors of the Contracting Party before its entry into force. However, this Agreement does not apply to disputes that may arose before its entry into force.

## **Article 13. Coordination between the Contracting Parties**

The Ministry of Economy and Trade of the Syrian Arab Republic and the Ministry of Finance of the Republic of Lebanon shall be the parties concerned with coordination between the Contracting Parties through the General Secretariat of the Supreme Council of Lebanon and Syria.

## **Article 14. Entry Into Force**

1. This Agreement shall enter into force thirty days after the date of the last notice of completion of the legal procedures for ratification by the Contracting Parties.
2. This Agreement shall replace the Agreement for the Promotion and Protection of Investments signed between the two countries on 1997/1/12, upon its entry into force.
3. This Agreement may be amended by agreement between the Contracting Parties and the amendment shall be subject to the same legal procedures for the entry into force of this Agreement.

## **Article 15. Duration and Expiration**

This agreement shall last for ten years, and be renewed thereafter for an indefinite period unless otherwise stated. The Contracting Parties shall notify the other Contracting Party of its wish to terminate it one year before the date of expiry of its validity, and the investments made prior to the date of its termination shall remain subject to them for a period of ten years from the date of such termination.

This agreement is done and signed in Damascus on 18/7/2010 in three original copies in Arabic, each of which is authentic

For the Government of the Syrian Arab Republic

Minister of Economy and Trade

Ms. Lamia Mari Asi

For the Government of the Lebanese Republic

Ministry of Finance

Professor Raya Hafar