IN THE NAME OF GOD

AGREEMENT

ON RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF TUNISIA

AND

THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN

PREAMBLE

The Government of the Republic of Tunisia and the Government of the Islamic Republic of Iran hereinafter referred to as the "Contracting Parties",

Desiring to intensify economic co-operation to the mutual benefit of both States,

Intending to utilise their economic resources and potential for the in the area of investments as well as to create and maintain favourable conditions for investments of the nationals of the Contracting Parties in each others' territory and,

Recognising the need to promote and protect investments of the nationals of the Contracting Parties in each others' territory,

Have agreed as follows :

ARTICLE 1
DEFINITIONS

For the purpose of this Agreement, the meanings of the terms used therein are as follows:

1- The term "investment" refers to every kind of property or asset, invested by the investors of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the other Contracting Party (hereinafter referred to as the host Contracting Party) including, but not exclusively, the following :

a) Movable and immovable property as well as rights related thereto;

b) Shares, or any kind of participation in companies;
c) Title to money or to any performance having an economic value;
d) Intellectual property rights such as patent, industrial designs or models, trade marks and names, know-how and goodwill;
e) Rights conferred by law including rights to search for, extract or exploit natural resources.

2- The term "investor" refers to the following persons of either contracting party who invest in the territory of the other Contracting Party within the framework of this Agreement :

a) natural persons who, according to the laws of either Contracting Party, are considered to be its nationals.
b) legal entities constituted or incorporated under the laws of a Contracting Party having their real economic activities or their headquarters in the territory of that Contracting Party.

3- The term "returns" refers to the amounts legally yielded by an investment including profit derived from investments, dividends, royalties and fees.

4- The term "territory" :

a) In the case of the Republic of Tunisia means the territory of the Republic of Tunisia.
b) In the case of the Islamic Republic of Iran means the territory of the Islamic Republic of Iran.

ARTICLE 2
PROMOTION OF INVESTMENTS

1- Either Contracting Party shall encourage its nationals to invest in the territory of the other Contracting Party.

2- Either Contracting Party shall, within the framework of its laws and regulations, create favourable conditions for attraction of investments of nationals of the other Contracting Party in its territory.

ARTICLE 3
ADMISSION OF INVESTMENTS

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

2-When an investment is admitted, either Contracting Party shall, in accordance with its laws and regulations, grant all necessary permits for the realisation of such investment.

ARTICLE 4
PROTECTION AND TREATMENT OF INVESTMENTS

1-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, sale or liquidation of such investments.

2-Each Contracting Party shall ensure fair and equitable treatment within its territory of the investments of the investors of the other Contracting Party. This treatment shall not be less favourable than that granted by each Contracting Party to investments made within its territory by its own investors, or than that granted by each Contracting Party to the investments made within its territory by investors of the most favoured nation, if this latter treatment is more favourable.

3-If a Contracting Party has accorded or shall accord in future special advantages or rights to investor(s) of any third state by virtue of an existing or future agreement establishing a free trade area, a customs union, a common market or a regional economic organisation and/or by virtue of an arrangement on the avoidance of double taxation, it shall not be obliged to accord such advantages or rights to investors of the other Contraction Party.

ARTICLE 5
MORE FAVOURABLE PROVISIONS

Notwithstanding the terms set forth in this Agreement, more favourable provisions which have been or may be agreed upon by either of the Contracting Parties with an investor of the other Contracting Party are applicable.

ARTICLE 6
EXPROPRIATION AND COMPENSATION

1. Investments of investors of either Contracting Party shall not be nationalised, confiscated, expropriated or subjected to similar measures by the other Contracting Party except when such measures are taken for public purposes, in accordance with due process of law, in a non discriminatory manner and upon payment of prompt, effective and appropriate compensation.

2. The amount of compensation shall be equivalent to the real value of the investment immediately before the action of nationalisation, confiscation or expropriation was taken, or became public knowledge. Compensation shall include an amount to compensate for any unjustified delay in payment provided that the delay of payment is not caused by the investor.

3. The investor affected shall have a right to prompt review, under the law of the Contracting Party making expropriation, by a judicial or any other competent and independent authority of that Contracting Party, of its case, of the valuation of its investment, and payment of compensation, in accordance with the principles set out in paragraphs (1) and (2) of this Article.

ARTICLE 7
LOSSES

Investors of either Contracting Party whose investments suffer losses due to any armed conflict, revolution or similar state of emergency in the territory of the other Contracting Party shall be accorded by the other Contracting Party treatment no less favourable than that accorded to its own investors or to investors of any third State whichever is more favourable as regards compensation, restitution, and indemnification in relation to such losses.

ARTICLE 8
REPATRIATION AND TRANSFER

1- Each Contracting Party shall permit in good faith the following transfers related to investments referred to in this Agreement to be made freely and without delay out of its territory:

a) Returns ;
b) proceeds from the sale and/or liquidation of all or part of an investment ;
c) royalties and fees related to transfer of technology agreements;
d) sums paid pursuant to Articles 6 and 7 of this Agreement ;
e) loan instalments, under a legal contract, related to an investment ;
f) amounts of salaries and wages received by the employees of an investor who have obtained in the territory of the host Contracting Party, the corresponding work permits related to that investment ;
g) payments arising from a decision of the authority referred to in Article 12.

2- Unless otherwise agreed by the investor, the above transfers shall be effected in a convertible currency and at the current rate of exchange, in accordance with the exchange regulations, prevailing on the date of transfer.

ARTICLE 9
SUBROGATION

If a Contracting Party or its designated agency, within the framework of a legal system, subrogates an investor pursuant to a payment made under an insurance or guarantee agreement against non-commercial risks :

(a) such subrogation shall be recognised by the other Contracting Party ;

(b) the subrogee shall not be entitled to exercise any right other than the rights which the investor would have been entitled to exercise ;

(c) disputes between the subrogee and the host Contracting Party shall be settled in accordance with Article 12 of this Agreement.

ARTICLE 10
OBSERVANCE OF COMMITMENTS

Either Contracting Party shall guarantee the observance of the commitments it has entered into with respect to investments of investors of the other Contracting Party.

ARTICLE 11
SCOPE OF THE AGREEMENT

This Agreement shall apply to investments admitted in accordance with the laws and regulations of the host Contracting Party.

ARTICLE 12
SETTLEMENT OF DISPUTES BETWEEN A CONTRACTING PARTY AND INVESTOR(S) OF THE OTHER CONTRACTING PARTY

1-If any dispute arises between the host Contracting Party and investor(s) of the other Contracting Party with respect to an investment, the host Contracting Party and the investor(s) shall primarily endeavour to settle the dispute in an amicable manner through negotiation and consultation.

2- In the event the host Contracting Party and the investor(s) can not agree within six months from the date of notification of the claim by one party to the other, the investor may refer the dispute to the competent courts of the host Contracting Party or to an ad-hoc arbitral tribunal.

3- A dispute primarily referred to the competent courts of the host Contracting Party, as long as it is pending, cannot be referred to arbitration save with the parties agreement ; and in the event that a final judgement is rendered, it cannot be referred to arbitration.

4- National courts shall not have jurisdiction over any dispute referred to arbitration. However, the provisions of this paragraph do not bar the winning party to seek for the enforcement of the arbitral award before national courts.

4-Arbitration shall be conducted according to the rules of arbitration of the United Nations Commission on International Trade Law (UNCITRAL).

ARTICLE 13
SETTLEMENT OF DISPUTE
BETWEEN THE CONTRACTING PARTIES

1- All disputes arising between the Contracting Parties relating to the interpretation or application of this Agreement shall, in the first place, be settled amicably by consultation. In case of disagreement, either Contracting Party may while sending a notice to the other Party, refer the case to an arbitral tribunal of three members consisting of two arbitrators appointed by the Contracting Parties and an umpire.

In case the dispute is referred to the arbitral tribunal, either Contracting Party shall appoint an arbitrator within sixty days from the receipt of the notification and the arbitrators appointed by the Contracting Parties shall appoint the umpire within sixty days from the date of last appointment. If either Contracting Party does not appoint its own arbitrator or the appointed arbitrators do not agree on the appointment of the umpire within the said periods, each Contracting Party may request the President of the International Court of Justice, to appoint the arbitrator of the failing party or the umpire, as the case may be.

However the umpire shall be a national of a state having diplomatic relations with both Contracting parties at the time of the appointment.

2-In case the umpire is to be appointed by the President of the International Court of Justice, if 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 of the International Court of Justice, and if the vice-president is also prevented from carrying out the said function or he is a national of either Contracting Party, the appointment shall be made by the senior member of the said court who is not a national of either Contracting Party.

3-Subject to other provisions agreed by the Contracting Parties, the arbitral tribunal shall determine its procedure and the place of arbitration.

4-The decisions of the arbitral tribunal shall be binding on the Contracting Parties.

ARTICLE 13
VALIDITY OF THE AGREEMENT

1-This Agreement shall enter into force for a period of ten years after 30 days from the date of the last notification of either Contracting Party to the Other Contracting party that it has fulfilled necessary measures, in accordance with its laws and regulations for the entry into force of this Agreement. After the said period, this Agreement shall remain in force thereafter unless one of the contracting Parties notifies the other Contracting Party in writing of its unwillingness to continue with it, six months prior to the expiration or termination thereof.

2-After the expiration of the validity or termination of this Agreement, its provisions shall apply to investments under this Agreement for a further period of ten years.

ARTICLE 15
LANGUAGE AND NUMBER OF THE TEXTS

This Agreement is done in duplicate in the Arabic, Persian and English languages, all texts being equally authentic. In case of divergence of interpretation the English text shall prevail.

Signed at ..... on ..... Corresponding to ..... by representatives of the Government of the Republic of Tunisia and the Government of the Islamic Republic of Iran.

For the Government of the Republic of Tunisia

Youssef Mokadem
Secretary of State
Foreign Affairs

For the Government of the Islamic Republic of Iran

Hossein Namazi
Finance and Economy
Minister

PROTOCOL

On signing the Agreement on Reciprocal Promotion and Protection of Investments between the Republic of Tunisia and the Islamic Republic of Iran, the Contracting Parties in addition agreed on the following provisions, which shall be regarded as an integral part of the said Agreement.

Ad Article 8

Notwithstanding Article 8 of the Agreement, a Contracting Party may prevent a transfer through the equitable, non-discriminatory and good faith application of measures to protect the rights of creditors, or relating to the compliance with laws and regulations on the requirements for transfers or in connection with criminal offenses, orders or judgements in administrative and adjudicatory proceedings, provided that such measures and their applications shall not be used as a means to impair or derogate from the free and undelayed transfer.

Ad Article 11

1- This Agreement shall apply to investments made in accordance with The laws and regulations of the host Contracting Party after January first, 1957 and existing at the date of entry into force of the Agreement.

2- In the territory of the Islamic Republic of Iran, this Agreement shall apply to investments approved by the Organisation for Investment, Economic and Technical Assistance of Iran (OIETAI) or any other authority which may succeed it.

This Protocol is done in duplicate in the Arabic, Persian and English languages, all texts being equally authentic. In case of divergence of interpretation the English text shall prevail.

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