

AGREEMENT

BETWEEN THE GOVERNMENT OF UKRAINE AND
THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT CONCERNING
THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

Preamble

The Government of Ukraine and the Government of the Arab Republic of Egypt, hereinafter referred to as "The two Parties" ,

DESIRING to create favourable conditions for investments in both States and to intensify the co-operation between private enterprises in both States with a view to stimulating the productive use of resources ,

RECOGNIZING that a fair and equitable treatment of investments on a reciprocal basis will serve this aim ,

HAVE AGREED as follows:

Article 1

Definitions

(1) The term "investments" shall mean every kind of asset connected with economic activities acquired for the purpose of establishing lasting economic relations between the investor and enterprise irrespective the legal form including joint ventures and including any share of the capital to which investors are entitled as well as any capital appreciation and, in particular, but not exclusively :

/i/ shares, parts or any other form of participation in companies incorporated in the territory of one of the two Parties ,

/ii/ returns reinvested, claims to money or other rights relating to services having a financial value ,

/iii/ movable and immovable property, as well as any other rights as mortgages, privileges, guarantees and any other similar rights as defined in conformity with the law of one of the two Parties in the territory of which the property in question is situated,

/iv/ industrial and intellectual property rights, technology, trademarks, goodwill, know-how and any other similar rights,

/v/ business concessions conferred by law or by contract, including the concessions related to natural resources.

(2) The term "returns" shall mean the amounts yielded by an investment and in particular though not exclusively, includes profit, interest, royalties or fees.

(3) The term "investor" shall mean with regard to either of the two Parties

/a/ Natural persons having status as nationals of Ukraine and nationals of the Arab Republic of Egypt according to their laws ,

/b/ Any entity established and registered in accordance with, and recognized as a legal persons by the law of that Party.

(4) The term "territory" shall mean in the respect of each of the two Parties the territory under its sovereignty and the sea and submarine areas over which that Party

exercises, in conformity with international law, sovereignty, sovereign rights or jurisdiction .

Article 2

Promotion of Investments

Each of the two Parties shall admit the investment by investors of the other Party in accordance with its legislation and administrative practice, and promote such investments as far as possible including facilitating the establishment of representative offices.

Article 3

Protection of Investment

(1) Investment of investors of either of the two Parties shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Party.

Neither of the two Parties 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 Party. Each of the two Parties shall observe any obligation it may have entered into with regard to investments of investors of the other Party.

(2) Neither of the two Parties shall in its territory subject investments made by investors of the other Party or returns of such investments to treatment less favourable than that which it accords to investments or returns of its own

investors or any other third State (whichever of these standarts is more favourable from the point of view of the investors).

Article 4

Exceptions

(1) The provisions of this Agreement relative to the grant of treatment not less favourable than that accorded to the investors of either of the two Parties or of any third State shall not be construed so as to oblige one of the two Parties to extend to the investors of the other Party the benefit of any treatment, preference or privilege resulting from:

/a/ any existing or future customs union, regional economic organizations, or similar international agreement to which either of the two Parties is or may become a party, or

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

(2) The provisions of Article 7, section 1 of this Agreement shall be without prejudice to the right of each of the two Parties to take protective measures in respect of capital movements provided such measures are taken in accordance with multilateral agreements to which either of the two Parties is or may become a party.

Article 5

Expropriation and Compensation

Investments of investors of either of the two Parties shall not be nationalized, expropriated or subjected to measures having effect equivalent to nationalization or expropriation /hereinafter referred to as "expropriation"/ in the territory of the other Party except for a public purpose related to the internal needs of the expropriating Party, on a basis of non-discrimination and against prompt, adequate and effective compensation. Such compensation shall amount to the real value of the investment expropriated immediately before the expropriation.

Article 6

Compensation of Losses

Investors of one of the two Parties whose investments in the territory of the other Party suffer losses owing to war or other conflict, revolution, a state of national emergency, revolt, insurrection, riot in the territory of the latter Party, shall be accorded by the latter Party treatment, as regards restitution, indemnification, compensation or other settlement, no less favourable than that which the latter Party accords to its own investors or to investors of any third State (whichever of these standarts is more favourable from the point of view of the investor). Payments resulting from any provision in this Article shall be freely transferrable, made without delay.

Article 7

Repatriation and Transfer of Capital and Returns

(1) Each of the two Parties in whose territory investments have been made by the investors of the other Party shall grant those investors the unrestricted transfer of the payments relating to these investments, particularly of:

/a/ returns of investments,

/b/ amounts relating to loans incurred, or other contractual obligations undertaken, for the investment,

/c/ additional contribution of capital necessary for the maintenance or the development of the investment,

/d/ the invested capital or the proceeds, including possible capital appreciations, arising from the sale of the partial or total liquidation of the investment,

/e/ the earnings of the expatriates who are allowed to work in an investment made in the territory of the other Party.

(2) Transfers of currency pursuant to Article 5,6 and section (1) of this Article shall be made in the currency in which the investment has been made or in any convertible currency if so agreed by the investor, at rate of exchange in force at the due date.

Article 8

Subrogation

If one of the two Parties or its designated agency makes payment to its own investors under a guarantee it has accorded in respect of an investment in the territory of the other Party the latter Party shall recognize:

/a/ the assignment, whether under the law or pursuant to a legal transaction in that country, of any right or claim by the investor to the former Party or to its designated agency as well as,

/b/ that the former Party or its designated agency is entitled by virtue of subrogation to exercise the rights and enforce the claims of that investor and shall assume the obligations related to the investment.

Article 9

Settlement of Disputes between one of the two Parties and an Investor of the other Party

(1) The two Parties shall strive to settle any dispute between one of the two Parties and an investor of the other Party in an amicable way.

(2) If any such dispute should arise and cannot be settled within six months it shall be submitted, at the request of either Party, to arbitration. The arbitration shall be conducted in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law, as adopted in Resolution 31/98 of the United Nations General Assembly on 15 December 1976, unless the Parties otherwise agree.

(3) The arbitration decision shall be final and binding upon all parties to the dispute. Each of the two Parties shall undertake to fulfil the decision in accordance with its legislation.

Article 10

Settlement of Dispute between the two Parties

(1) The two Parties shall in the spirit of cooperation seek for a quick and just settlement of any disputes between them concerning the interpretation or application of this Agreement.

(2) If a dispute between the two Parties cannot thus be settled within six months, it shall upon the agreement of the two Parties be submitted to Arbitration Court "ad hoc".

(3) The Arbitration Court shall be constituted in the following way. Within two months after the receipt of the request for arbitration each of the two Parties shall appoint one member of the Arbitration Court. The appointed two members shall then select a national of a third country who, on the approval of the two Parties, shall be appointed Chairman of the Arbitration Court (hereinafter referred to as the "Chairman"). The Chairman shall be appointed within two months from the date of appointment of the other two members of the Arbitration Court.

(4) If within the periods specified in paragraph (3) of this Article the necessary appointments have not been made, either of the two Parties may, in absence of other agreements, invite the President of the International Court to make such appointments. If the President is a citizen of either Party or if he otherwise is prevented from discharging the said function, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a citizen of

either Party or he is also prevented from discharging the said function, the member of International Court next in seniority who is not a citizen of either Party shall be invited to make the necessary appointments.

(5) The Arbitration Court shall reach its decision by a majority of votes. Such decision shall be binding upon both Parties. Each Party shall bear the cost of its own arbitration and its representation in the arbitral proceedings. The cost of the Chairman and other costs shall be borne in equal parts by both Parties. The Arbitration Court shall determine its own procedure.

Article 11

Amendments

At the time of entry into force of this Agreement or at any time thereafter the provisions of this Agreement may be amended in such manner as may be agreed between the two Parties. Such amendments shall enter into force when the two Parties have notified each other through diplomatic channels that the legal requirement for entry into force have been fulfilled.

Article 12

Consultations

Either Party may propose the other Party to consult on any matter affecting the application of the present Agreement. These consultations shall be held on the proposal of one of the two Parties at a place and at a time agreed upon through diplomatic channels.

Article 13

Applicability of this Agreement

(1) The provisions of this Agreement shall apply to investments made by investors of one of the two Parties in the territory of the other Party after entry into force of this Agreement.

(2) This Agreement shall apply to investments made by investors of one of the Parties in the territory of the other Party before entry into force of this Agreement.

Article 14

Entry into Force

This Agreement shall enter into force thirty days after the date on which the Governments of the two Parties have notified each other through diplomatic channels that the respective procedures in each country have been completed .

Article 15

Duration and Termination

(1) This agreement shall remain in force for a period of ten years and shall continue in force thereafter unless, after the expiry of the initial period of ten years, either Party notifies in writing the other Party of its intention to terminate this Agreement. The notice of termination shall become effective one year after it has been received by the other Party.

(2) In respect of investments made prior to the date when the notice of termination of this Agreement becomes effective, the provisions of Articles (1) to (10) shall remain in force for a further period of ten years from that date.

Done at Cairo on December, 22nd, 1992 in duplicate in the Ukrainian, Arabic and English languages, all texts being equally authentic.

In case of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF
UKRAINE



FOR THE GOVERNMENT OF
THE ARAB REPUBLIC OF EGYPT

