

No. 31167

**SPAIN
and
EGYPT**

**Agreement on the reciprocal promotion and protection of
investments. Signed at Madrid on 3 November 1992**

Authentic texts: Spanish, Arabic and English.

Registered by Spain on 23 August 1994.

**ESPAGNE
et
ÉGYPTE**

**Accord sur la promotion et la protection réciproques des
investissements. Signé à Madrid le 3 novembre 1992**

Textes authentiques : espagnol, arabe et anglais.

Enregistré par l'Espagne le 23 août 1994.

AGREEMENT¹ ON THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS BETWEEN THE KINGDOM OF SPAIN AND THE ARAB REPUBLIC OF EGYPT

The Kingdom of Spain and The Arab Republic of Egypt, hereinafter "The Parties",

DESIRING to intensify their economic cooperation for the mutual benefit of both countries,

INTENDING to create favorable conditions for investments made by investors of each Party in the territory of the other Party,

and

RECOGNIZING that the promotion and protection of investments under this Agreement will stimulate initiatives in this field,

Have agreed as follows:

ARTICLE 1

DEFINITIONS

For the purposes of the present Agreement,

1. The term "Investor" means:

- a) any individual who, in the case of Spanish investors, is resident in Spain under Spanish law and, in the case of investors of the other Party, possesses its nationality pursuant to the law of that Party;
- b) any legal entity, including companies, associations of companies, trading corporate entities and other organizations which is incorporated or, in any event, is properly organized under the law of that Party and is actually managed from the territory of that Party.

2. The term "Investment" means any kind of assets, such as goods and rights of all sorts, acquired under the law of the host country of the investment and in particular, although not exclusively, the following:

- shares and other forms of participation in companies;
- rights arising from all types of contributions made for the purpose of creating economic value, including every loan granted for this purpose, whether capitalized or not;

¹ Came into force on 26 April 1994, the date on which the Parties notified each other (on 18 April 1993 and 26 April 1994) of the completion of their respective constitutional formalities, in accordance with article 12 (1).

- movable and immovable property and any other property rights such as mortgages, loans or pledges;
- any rights in the field of intellectual property, including patents and trademarks, as well as manufacturing licences and know-how;
- rights to engage in economic and commercial activities authorized by law or by virtue of a contract, particularly those rights to search for, cultivate, extract or exploit natural resources, in accordance with existing laws and regulations.

3. The term "returns" refers to income deriving from an investment in accordance with the definition contained above, and includes, in particular, profits, dividends and interests.

4. The term "territory" designates the land territory and territorial waters of each of the Parties, as well as the exclusive economic zone and the continental shelf that extends outside the limits of the territorial waters of each of the Parties, over which they have or may have jurisdiction and sovereign rights for the purposes of prospecting, exploration and conservation of natural resources, pursuant to international law.

ARTICLE 2

PROMOTION, ACCEPTANCE

1. Each Party shall encourage, insofar as possible, the investments made in its territory by investors of the other Party and shall accept such investments pursuant to its law.

2. This Agreement shall likewise be applicable to investments made before its entry into force by investors of one Party under the legal provisions of the other Party in the territory of the latter.

ARTICLE 3

PROTECTION

1. Each Party shall protect in its territory the investments made in accordance with its laws and regulations, by investors of the other Party and shall not hamper, by means of unjustified or discriminatory measures, the management, maintenance use, enjoyment, expansion, sale and if it is the case, the liquidation of such investments.

2. Each Party shall endeavour to grant the necessary permits relating to these investments and shall allow, within the framework of its law, the execution of contracts related to manufacturing-licences and technical, commercial, financial and administrative assistance.

3. Each Party shall also endeavour, whenever necessary, to grant the permits required in connection with the activities of consultants or experts engaged by investors of the other Party.

ARTICLE 4TRETEMENT

1. Each Party shall guarantee in its territory fair and equitable treatment for the investments made by investors of the other Party.

2. This treatment shall not be less favorable than that which is extended by each Party to the investments made in its territory by investors of a third country.

3. However, this treatment shall not extend to the privileges that one Party may grant to investors of a third country by virtue of its membership in:

- a free-trade area,
- a customs union,
- a common market or
- a mutual economic assistance organization or by virtue of an agreement entered into before the signature of this convention which contains provisions similar to those granted by that Party to the members of such organization.

4. The treatment given pursuant to this article shall not extend to tax deductions and exemptions or other similar privileges granted by either of the Parties to investors of third countries by virtue of a double-taxation avoidance agreement or any other taxation agreement.

5. In addition to the provisions of paragraph 2 of this article, each Party shall apply, under its own law, no less favorable treatment to the investments of investors of the other Party than which is that granted to its own investors.

ARTICLE 5COMPENSATION FOR LOSSES

Investors of one Contracting Party whose investments or returns in the territory of the other Contracting Party suffer losses owing to war, other armed conflicts, a state of national emergency or other similar circumstances in the territory of the latter shall be accorded, as regards restitution, indemnification, compensation or other settlement, treatment no less favourable than that which the latter Contracting Party grants to investors of any third State. Any payment made under this Article shall be prompt, adequate, effective and freely transferable.

ARTICLE 6NATIONALIZATION AND EXPROPRIATION

The nationalization, expropriation or any other measure of similar characteristics or effects that may be applied by the authorities of one Party against the investments in its own territory of investors of the other Party must be applied exclusively for reasons of public interest pursuant to the law, and shall in no case be discriminatory. The Party adopting such measures shall pay to the investor or his legal beneficiary an adequate indemnity in convertible currency without unjustified delay.

ARTICLE 7TRANSFER

With regard to the investments made in its territory, Each Party shall grant to investors of the other Party the right to freely transfer the income deriving therefrom and other payments related thereto, including particular but not exclusively, the following:

- investment returns, as defined in Article 1;
- the indemnities provided for under Articles 5 and 6;
- the proceeds of the sale or liquidation, in full or partial, of an investment;
- the salaries, wages and other compensation received by the citizens of one Party who have obtained in the territory of the other Party the corresponding work permits in relation to an investment, in accordance with existing laws and regulations.

The transfers shall be made in freely-convertible foreign currencies.

The host Party of the investment shall allow the investor of the other Party, or the company in which he has invested, to have access to the official foreign-exchange market in a non-discriminatory manner so that the investor may purchase the necessary foreign currency to make the transfers pursuant to this article.

Protection of those transfers under the present Agreement will only be granted when they take place in accordance with tax regulations in the host Party of the investment.

The Parties undertake to facilitate the procedures needed to make these transfers without excessive delays. In particular, no more than six months must elapse from the date on which the investor properly submits the necessary applications in order to make the transfer until the date the transfer actually takes place. Therefore, both Parties undertake to carry out the required formalities, both for the acquisition of foreign currency and for its effective transfer abroad, within that period of time.

ARTICLE 8

MORE FAVORABLE TERMS

More favourable terms than those of this Agreement which have been agreed to by one of the Parties with investors of the other Party shall not be affected by this Agreement.

ARTICLE 9

THE PRINCIPLE OF SUBSTITUTION

In the event that a Party has issued a financial guarantee relative to non-commercial risks connected with an investment made by an investor of that Party in the territory of the other Party, the latter shall accept the application of the principle of substitution of the first Party in respect of the economic rights of the investor but not in respect of property rights, from the time when the first Party made a first payment charged to the guarantee issued.

This substitution will make it possible for the first Party to be the direct beneficiary of all the payments for compensation of which the initial investor could be a creditor. In no event can a substitution take place of rights to title, use, enjoyment or any other right arising from ownership of the investment without the pertinent authorizations having previously been obtained, pursuant to the current law on foreign investments in the Party in whose territory the investment was made.

ARTICLE 10

CONFLICTS OF INTERPRETATION OF THE AGREEMENT BETWEEN THE PARTIES

1. Any dispute between the Parties relative to the interpretation or application of this Agreement shall as far as possible be settled by the Governments of the two Parties.
2. If it were not possible to settle the dispute in this way within six months from the start of the negotiations, it shall be submitted, at the request of either of the two Parties, to a court of arbitration.
3. The court of arbitration shall be set up in the following way: each Party shall appoint an arbitrator and these two arbitrators shall elect a citizen from a third country as president. The arbitrators shall be appointed within three months and the president within five months from the date on which either of the two Parties informed the other Party of its intention to submit the dispute to a court of arbitration.
4. If one of the two Parties does not appoint its arbitrator before the established deadline, the other Party may request the United Nations Secretary General to make such appointment. In the event that the two arbitrators do not reach an agreement on the appointment of the third arbitrator before the established deadline, either of the Parties may turn call on the United Nations Secretary General to make the appropriate appointment.

5. The court of arbitration shall issue its decision on the basis of respect for the law, of the rules contained in this Agreement or in other agreements in force between the Parties, and well as of the universally recognized principles of international law.

6. Unless the Parties decide otherwise, the court shall lay down its own procedure.

7. The court shall take its decision by majority vote and that decision shall be final and binding for both Parties.

8. Each Party shall bear the expenses of the arbitrator appointed by it and those connected with representing it in the arbitration proceedings. The other expenses, including those of the president, shall be borne in equal parts by the two Parties.

ARTICLE 11

DISPUTES BETWEEN ONE PARTY AND INVESTORS OF THE OTHER PARTY

1. Disputes between one of the Parties and one investor of the other Party shall be notified in writing, including a detailed information, by the investor to the host Party of the investment. As far as possible the Parties shall endeavour to settle these differences by means of a friendly agreement.

2. If these disputes cannot be settled in this way within six months from the date of the written notification mentioned in paragraph 1, the conflict shall be submitted, at the choice of the investor, to:

- a court of arbitration in accordance with the Rules of Procedure of the Arbitration Institute of the Stockholm Chamber of Commerce.
- the court of arbitration of the Paris International Chamber of Commerce.
- the ad hoc court of arbitration established under the Arbitration Rules of Procedure of the United Nations Commission for International Trade Law.¹
- the International Center for Settlement of Investment Disputes (ICSID) set up by the "Convention on Settlement of Investment Disputes between States and Nationals of other States",² in case both Parties become signatories of this Convention.
- Regional Center for International Commercial arbitration in Cairo.

3. The arbitration shall be based on:

- the provisions of this agreement;

¹ United Nations, *Official Records of the General Assembly, Thirty-first Session, Supplement No. 17 (A/31/17)*, p. 34.

² *Ibid.*, vol. 575, p. 159.

- the national law of the Party in whose territory the investment was made, including the rules relative to conflicts of law;
- the rules and the universally accepted principles of international law.

4. The arbitration decisions shall be final and binding for the parties in conflict. Each Party undertakes to execute the decisions in accordance with its national law.

ARTICLE 12

ENTRY INTO FORCE, EXTENSION AND TERMINATION

1. This Agreement shall enter into force on the date on which the two Governments shall have notified each other that the respective constitutional formalities required for the entry into force of international agreements have been completed. It shall remain in force for an initial period of ten years and, by tacit renewal, for consecutive two years periods.

Either Party may terminate this Agreement by prior notification in writing, six months before the date of its expiration.

2. With respect to investments made or acquired prior to the date of termination of this Agreement and to which this Agreement otherwise applies, the provisions of all of the other Articles of this Agreement shall thereafter continue to be effective for a further period of ten years from such date of termination.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Agreement.

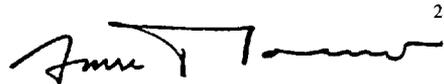
DONE in two originals in Arabic, Spanish and English, all of which are equally authentic, and in case of any divergances in interpretation the english text shall prevail.

In Madrid, 3rd November 1992

For the Kingdom
of Spain:



For the Arab Republic
of Egypt:



¹ Javier Solana Madariaga.

² Amre Moussa.