

**AGREEMENT
BETWEEN THE GOVERNMENT OF UKRAINE
AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN
ON RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS**

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

Desiring to intensify economic cooperation to the mutual benefit of both States,

Intending to create and maintain favourable conditions for investments of investors of one State in the territory of the other State, and

Conscious that the promotion and reciprocal protection of investments, according to the present Agreement, stimulates the business initiatives in this field,

Have agreed as follows:

**ARTICLE 1
DEFINITIONS**

For the purposes of this Agreement:

1. The term "investment" shall comprise every kind of asset invested in connection with economic activities by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the latter and shall include, in particular:

/a/ movable and immovable property as well as any other property rights such as mortgages, liens, pledges and similar rights;

/b/ shares, stocks and debentures of companies or any other form of participation in a company;

/c/ rights to claims to money or to any performance having an economic value associated with an investment;

/d/ industrial and intellectual property rights, including trade marks, patents, industrial designs, technical processes, know-how, trade secrets, trade names and goodwill associated with an investment;

/e/ any right conferred by law or under contract and any licenses and permits pursuant to law, including the right to search for, extract, cultivate or exploit natural resources.

2. The term "investor" shall mean any natural or legal person who invests in the territory of the other Contracting Party:

/a/ the term "natural person" shall mean any natural person having the nationality of either Contracting Party in accordance with its laws;

/b/ the term "legal person" shall mean any legal entities which are established under the laws of that Contracting Party and recognized as legal person by its laws and have their seat together with their real economic activities in the territory of that Contracting Party.

3. The term "returns" shall mean amounts yielded by an investment and in particular, though not exclusively, includes profits, capital gains, shares, dividends, royalties and fees.

4. The term "territory" shall mean:

(a) in respect of Ukraine:

the territory under its sovereignty of Ukraine and the sea and submarine areas over which it exercises, in conformity with international law, sovereign rights or jurisdiction;

(b) in respect of the Islamic Republic of Iran:

the territory of the Islamic Republic of Iran, including the maritime areas adjacent to its coasts, to the extent to which it may exercise sovereign rights or jurisdiction in those areas.

ARTICLE 2

PROMOTION AND PROTECTION OF INVESTMENTS

1. Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make investments in its territory and, shall admit such investments, in accordance with its laws and regulations.

2. Investments of the investors of either Contracting Party shall at all times enjoy full legal protection and security in the territory of the other Contracting Party, not less favourable than that accorded to the investors of any third state which are in a comparable situation.

ARTICLE 3

MOST-FAVOURED-NATION TREATMENT

1. Each Contracting Party shall in its territory accord to the investments and returns of the investors of the other Contracting Party treatment which is fair and equitable and not less favourable than that which it accords to investments and returns of the investors of any third State.

2. Each Contracting Party shall in its territory in accordance with its laws and regulations accord to investors of the other Contracting Party, as regards management, maintenance, use, enjoyment or disposal of their investment, treatment which is fair and equitable and not less favourable than that which it accords to any third State.

3. The provisions of paragraph 1 and 2 of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege which may be extended by the former Contracting Party by virtue of:

/a/ any customs union or free trade area or a monetary union or similar international agreements leading to such unions or institutions or other forms of regional cooperation to which either of the Contracting Party is or may become a party;

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

ARTICLE 4 COMPENSATION FOR LOSSES

1. When investments by investors of either Contracting Party suffer losses owing to war, armed conflict, a state of national emergency, revolt, insurrection, riot or other similar events in the territory of the other Contracting Party, they shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, not less favourable than that which the latter Contracting Party accords to the investments of its own investors or the investors of any third State whichever is more favourable.

2. Without prejudice to paragraph 1 of this Article, investors of one Contracting Party who in any of the events referred to in that paragraph suffer losses in the territory of the other Contracting Party resulting from:

/a/ requisitioning of their property by its forces or authorities,

/b/ destruction of their property by its forces or authorities which was not caused in combat action or was not required by the necessity of the situation,

shall be accorded just and adequate compensation for the losses sustained during the period of the requisitioning or as a result of the destruction of the property.

ARTICLE 5 EXPROPRIATION AND COMPENSATION

1. The investments of the investors of one Contracting Party shall not be expropriated, nationalised or subjected, directly or indirectly, to measures of similar effects by the other Contracting Party except for a public

purpose, in a non-discriminatory manner, upon payment of prompt, effective and just compensation and in accordance with due process of law.

2. Compensation for expropriation of an investment shall be equivalent of the investment immediately before the expropriatory action was taken or became public knowledge. Such compensation shall include extra compensation for the delayed payments from the date of expropriation.

3. The investor affected shall have a right, to prompt review, by a judicial or other official authorities of the host Contracting Party, of his or its case and of the valuation of his or its investment in accordance with the principles set forth in this Article.

ARTICLE 6 TRANSFERS

1. The Contracting Parties shall guarantee the transfer of payments related to investments in a freely convertible currency, without any restriction and undue delay in accordance with their respective laws and regulations. Such transfers shall include in particular:

/a/ capital;

/b/ returns;

/c/ funds in repayment of loans in connection with an investment;

/d/ proceeds of sale or liquidation of an investment;

/e/ monthly salaries, wages and other remunerations received by the nationals of one Contracting Party who have obtained in the territory of the other Contracting Party the corresponding work permits relative to an investment;

/f/ compensations pursuant to Articles 4 & 5.

2. For the purpose of this Agreement, exchange rates shall be the official rates effective for the current transactions at the date of transfer, unless otherwise agreed.

ARTICLE 7 SUBROGATION

1. If an investment of an investors of one Contracting Party is insured against non-commercial risks under a system established by law, by an insurance company of that Contracting Party, any subrogation of the insurer which stems from the terms of the insurance agreement shall be recognized by the other Contracting Party.

2. Such an insurer shall not be entitled to exercise any rights other than the rights which the investor would have been entitled to exercise.

3. Disputes between a Contracting Party and such an insurer shall be settled in accordance with the provisions of Article 8 of this Agreement.

ARTICLE 8

SETTLEMENT OF INVESTMENT DISPUTES BETWEEN A CONTRACTING PARTY AND AN INVESTOR OF THE OTHER CONTRACTING PARTY

1. Any dispute which may arise between an investor of one Contracting Party and the other Contracting Party in connection with an investment on the territory of that other Contracting Party shall be subject to negotiations between the parties in dispute.

2. If any dispute between an investor of one Contracting Party and the other Contracting Party can not be thus settled within a period of six months after the start of the above said negotiation, any of the parties to the dispute shall have the right to submit the case to an international ad hoc arbitral tribunal established under the Arbitration Rules of the United Nations Commission of International Trade Law (UNCITRAL). The parties to the dispute may agree in writing to modify these Rules. The arbitral awards shall be final and binding on both Parties to the dispute.

3. The arbitration shall be carried out by three arbitrators. Each Party to the dispute shall appoint an arbitrator, and these two arbitrators shall nominate a chairman who shall be a national of a third State having diplomatic relations with both Contracting Parties at the time of nomination.

4. The decisions of the tribunal shall be final and binding on both Parties to the disputes.

ARTICLE 9

SETTLEMENT OF DISPUTES BETWEEN THE CONTRACTING PARTIES

1. If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement, the Contracting Parties shall in the first place try to settle it by consultation and negotiation.

2. If the Contracting Parties cannot reach an agreement within six months after written notification of the settlement negotiation by one of the parties to the dispute, the matter shall, upon the request of either Contracting Party, be submitted to an arbitral tribunal of three members in accordance with the provisions of this Article.

3. Each Contracting Party shall appoint one arbitrator, and these two arbitrators shall nominate a chairman who shall be a national of a third State having diplomatic relations with both Contracting Parties at the time of nomination.

4. The Contracting Party who initiates arbitration shall appoint its arbitrator in the Request for Arbitration. If the other Contracting Party does not appoint its arbitrator within 30 days from the official receipt of the

Request for Arbitration, the arbitrator shall be appointed, upon request of the Contracting Party who has initiated arbitration, by the President of the International Court of Justice.

5. If the two arbitrators cannot reach an agreement within 60 days from the appointment of the second arbitrator about the choice of the chairman, the latter shall be appointed upon the request of either Contracting Party by the President of the International Court of Justice.

6. If in the case specified under paragraphs (4) and (5) of this Article, 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 latter is also prevented from carrying out the said function or is a national of either Contracting Party, then the appointment shall be made by the eldest member of the International Court of Justice who is not national of either Contracting Party.

7. Subject to other provisions made by the Contracting Parties, the tribunal shall determine its procedure and the place of arbitration.

8. The decision of the Arbitral Tribunal shall be final and binding on the Contracting Parties. Each Contracting Party shall bear the cost of its own arbitrator and its representation in the arbitral proceedings. The cost of the chairman and the remaining costs shall be borne in equal parts by both Contracting Parties.

ARTICLE 10

APPLICATION OF OTHER RULES AND SPECIAL COMMITMENTS

If the legislation of either Contracting Party or the international agreements existing at present or entered into thereafter between the Contracting Parties, in addition to the present Agreement contain a rule, whether general or specific, entitling investments by the investors of the other Contracting Party, to a treatment more favourable than is provided for by the present Agreement, such rule shall to the extent that is more favourable prevail over the present Agreement.

ARTICLE 11

APPLICABILITY OF THIS AGREEMENT

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

2. The Contracting Parties may agree on a case by case basis, that the investments of the investors of one Contracting Party within the territory of the other Contracting Party made prior to the entry into force of the Agreement be also covered by the provisions of this Agreement.

ARTICLE 12
ENTRY INTO FORCE, DURATION AND TERMINATION

1. Each of the Contracting Parties shall notify the other Contracting Party of the completion of the procedures required by its law for bringing this Agreement into force. This Agreement shall enter into force on the date of the second notification.

2. This Agreement shall remain in force for a period of ten years and shall continue to stay in force unless terminated in accordance with paragraph 3 of this Article.

3. Either Contracting Party may, by giving one year prior written notice to the other Contracting Party, terminate this Agreement at the end of the initial ten-year period or at any time thereafter.

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

In witness whereof, the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at, this day of, 199 , in Ukrainian, Persian 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 ISLAMIC REPUBLIC OF IRAN



PROTOCOL

On signing the Agreement between the Government of Ukraine and the Government of the Islamic Republic of Iran on Reciprocal Promotion and Protection of Investments, the Contracting Parties also agreed on the following clauses, which shall be deemed to form an integral part of the Agreement.

For the purpose of further clarification with respect to the terms "investment", and "admit" as used in Article 1.1 and the Article 2.1 as well as in other Articles of the Agreement, the positions of the Contracting Parties are as follows:

1. As far as Ukraine is concerned, the term "investment" referred to in Article 1.1 of this Agreement, as well as in the other Articles of this Agreement, refers to all investments made by the investors of the Islamic Republic of Iran within the territory of the Ukraine in accordance with the Ukrainian laws and regulations in force. Admission and registration of investments of investors of the Islamic Republic of Iran in Ukraine shall be evidenced by a specific document which is delivered in accordance with the Ukrainian laws and regulations in force.

2. As far as the Islamic Republic of Iran is concerned, the term "investment" referred to in Article 1.1 as well as in the other Articles of the Agreement, refers exclusively to investments which are admitted and registered within the territory of the Islamic Republic of Iran in accordance with the Laws and Regulations concerning the Attraction and Protection of Foreign Investments in Iran (L.A.P.F.I.) or laws and regulations which may succeed to L.A.P.F.I.

Admission and registration of investments of investors of the Ukraine within the territory of the Islamic Republic of Iran shall be evidenced by an

"Admission Certificate", which is a specific document delivered by the Ministry of Economic Affairs and Finance, Organization for Investment, Economic and Technical Assistance of Iran (O.I.E.T.A.I.) or its successors, indicating that the investment has been approved under the laws and regulations of the Islamic Republic of Iran, concerning foreign investments.

The "Admission Certificate" may specify certain conditions under which the investment has been admitted.

DONE in duplicate at, this day of, 1996, in Ukrainian, Persian 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 ISLAMIC REPUBLIC OF IRAN

