

A g r e e m e n t

between

the Swiss Confederation

and

the Syrian Arab Republic

on the Promotion and Reciprocal Protection

of Investments

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Preamble

The Swiss Federal Council and the Government of the Syrian Arab Republic,

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

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

Recognizing the need to promote and protect foreign investments with the aim to stimulate capital and technology flows and thereby foster the economic prosperity of both States,

Convinced that these objectives can be achieved without relaxing health, safety and environmental standards of general application,

Have agreed as follows:

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Article 1
Definitions

For the purposes of this Agreement:

- (1) The term "investment" refers to any kind of asset and any rights connected thereto pursuant to applicable law, and includes in particular, though not exclusively:
 - (a) movable and immovable property as well as any other rights in rem, such as servitudes, mortgages, liens, pledges and usufructs;
 - (b) shares, parts or any other kind of participation in companies;
 - (c) claims to money or to any performance having an economic value;
 - (d) copyrights, industrial property rights (such as patents, utility models, industrial designs or models, trade or service marks, trade names, indications of origin), know-how and goodwill;
 - (e) concessions under public law, including concessions to search for, extract or exploit natural resources as well as all other rights given by law, by contract or by decision of the authority in accordance with the law.
- (2) The term "investor" refers with regard to either Contracting Party to
 - (a) natural persons who, according to the law of that Contracting Party, are considered to be its nationals;
 - (b) legal entities, including companies, corporations, business associations and other organisations, which are constituted or otherwise duly organised under the law of that Contracting Party and have real economic activities in the territory of the same Contracting Party.
- (3) The term "returns" means the amounts yielded by an investment and includes in particular, though not exclusively, profits, interest, capital gains, dividends, royalties and fees.
- (4) The term "territory" means:
 - in respect of the Syrian Arab Republic: The term "Syria" means, in accordance with international law, the territories of the Syrian Arab Republic including its internal waters, territorial sea, the subsoil thereof and the airspace above them to which Syria has sovereign rights and other maritime areas to which Syria has the rights to exercise sovereign rights for the purposes of exploration, exploitation and conservation of natural resources.
 - in respect of the Swiss Confederation, the territory of Switzerland as designated in its laws in accordance with international law.

Article 2

Scope of application

The present Agreement shall apply to investments in the territory of one Contracting Party that are owned or controlled, directly or indirectly, by investors of the other Contracting Party. It applies to any such investments, whether made prior to or after its entry into force, however not to disputes relating to facts which occurred before that date.

Article 3

Promotion, admission

- (1) Each Contracting Party shall in its territory promote as far as possible investments by investors of the other Contracting Party, including through the exchange of information between the Parties on investment opportunities, and admit such investments in accordance with its laws and regulations.
- (2) When a Contracting Party shall have admitted an investment in its territory, it shall provide, in accordance with its laws and regulations, all necessary permits or authorisations in connection with such investment including permits for the carrying out of licensing agreements and contracts for technical, commercial or administrative assistance as well as authorisations required for the activities of managerial and technical personnel of the investor's choice.
- (3) Each Contracting Party shall without delay publish or otherwise make publicly available its laws, regulations, procedures and administrative decisions of general application, as well as international agreements, that may affect the investments of investors of the other Contracting Party.

Article 4

Protection and general treatment

Each Contracting Party shall accord to investments in its territory of investors of the other Contracting Party fair and equitable treatment as well as full and constant protection and security. Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the operation, management, maintenance, use, enjoyment, extension or disposal of such investments.

Article 5

National treatment and most-favoured-nation treatment

- (1) Each Contracting Party shall in its territory accord investments of investors of the other Contracting Party treatment not less favourable than that which it accords to investments

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of its own investors or to investments of investors of any third State, whichever is more favourable to the investor concerned.

- (2) Each Contracting Party shall accord investors of the other Contracting Party, as regards the operation, management, maintenance, use, enjoyment or disposal of their investments, treatment not less favourable than that which it accords to its own investors or investors of any third State, whichever is more favourable to the investor concerned.
- (3) If a Contracting Party accords special advantages to investors of any third State by virtue of an agreement establishing a free trade area, a customs union or a common market or by virtue of an agreement on the avoidance of double taxation, it shall not be obliged to accord such advantages to investors of the other Contracting Party.

Article 6

Free transfer

- (1) Each Contracting Party shall grant investors of the other Contracting Party the transfer without restriction or delay in a freely convertible currency of the amounts relating to their investments, in particular, though not exclusively, of:
 - (a) returns;
 - (b) amounts to meet contractual obligations, including under loan agreements;
 - (c) amounts assigned to cover expenses relating to the management of the investment;
 - (d) royalties and other payments deriving from rights enumerated in Article 1, paragraph (1), letters (c), (d) and (e) of this Agreement;
 - (e) the initial capital and additional amounts to maintain or increase the investment;
 - (f) the proceeds of the partial or total sale or liquidation of the investment, including possible increment values;
 - (g) payments arising under Articles 7 and 8 of this Agreement.
- (2) Unless otherwise agreed with the investor, transfers shall be made at the rate of exchange applicable on the date of transfer pursuant to the exchange regulations in force of the Contracting Party in whose territory the investment was made.

Article 7

Expropriation, compensation

- (1) Neither of the Contracting Parties shall take, either directly or indirectly, measures of expropriation, nationalization or any other measures having the same nature or the same effect against investments of investors of the other Contracting Party, unless the measures are taken in the public interest, on a non-discriminatory basis and under due process of law, and provided that provisions be made for prompt, effective and adequate

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compensation. Such compensation shall amount to the market value of the investment expropriated immediately prior to or at the time when the decision for expropriation was announced or became publicly known, whichever is earlier. The amount of compensation shall be settled in a freely convertible currency and paid without delay.

- (2) The investor affected by the expropriation shall have a right, under the law of the Contracting Party making the expropriation, to prompt review, by a judicial or other independent authority of that Contracting Party, of his case and of the valuation of his investment in accordance with the principles set out in this Article.
- (3) Where a Contracting Party expropriates the assets of a company which is incorporated or constituted under the law in force in any part of its own territory, and in which investors of the other Contracting Party own shares, it shall, to the extent necessary and subject to its laws, ensure that compensation according to paragraphs (1) and (2) of this Article will be made available to such investors.

Article 8

Compensation for losses

The investors of one Contracting Party whose investments have suffered losses due to war or to any other armed conflict, revolution, state of emergency, rebellion, civil disturbance, or any other similar event in the territory of the other Contracting Party shall benefit, on the part of this latter, from a treatment in accordance with Article 5 of this Agreement as regards restitution, indemnification, compensation or other settlement.

Article 9

Other Commitments

- (1) If provisions of law of either Contracting Party or obligations under international law existing at present or established hereafter, whether general or specific, entitle investments by investors of the other Contracting Party to a treatment more favourable than is provided for by the present Agreement, such provisions or obligations shall to the extent that they are more favourable prevail over the present Agreement as long as they last.
- (2) Each Contracting Party shall observe any other obligation it may have entered into with regard to a specific investment of an investor of the other Contracting Party.

Article 10

Principle of subrogation

If a Party or its designated agency has made a payment in accordance with a financial guarantee against non-commercial risks concerning an investment by one of its investors in the territory of the other Party, the latter shall recognize the rights of the first Party by virtue of the principle of subrogation into the rights of the investor.

Article 11

**Disputes between a Contracting Party
and an investor of the other Contracting Party**

- (1) For the purpose of solving disputes with respect to investments between a Contracting Party and an investor of the other Contracting Party and without prejudice to Article 12 of this Agreement (Disputes between the Contracting Parties), consultations will take place between the parties concerned.
- (2) If these consultations do not result in a resolution within six months from the date of the written request for consultations, the investor may submit the dispute either to the courts or the administrative tribunals of the Contracting Party in whose territory the investment has been made or to international arbitration. In the latter event the investor has the choice between either of the following:
 - (a) the International Centre for Settlement of Investment Disputes (ICSID) provided for by the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature at Washington, on March 18, 1965 (hereinafter the "Convention of Washington"), as soon as both Contracting Parties are members to the Convention; and
 - (b) an ad hoc-arbitral tribunal which, unless otherwise agreed upon by the parties to the dispute, shall be established under the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL).

Both Contracting Parties declare their consent to submit the dispute to arbitration in accordance with this paragraph.

- (3) A company which has been incorporated or constituted according to the laws in force in the territory of one Contracting Party and which before a dispute arises was under the control of investors of the other Contracting Party shall, in accordance with Article 25 (2) (b) of the Convention of Washington, be treated as a company of the other Contracting Party.
- (4) The Contracting Party which is party to the dispute shall at no time whatsoever during the process assert as a defence its immunity or the fact that the investor has received, by virtue of an insurance contract, a compensation covering the whole or part of the incurred damage.

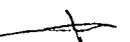
- (5) Neither Contracting Party shall pursue through diplomatic channels a dispute submitted to international arbitration unless the other Contracting Party does not abide by and comply with the arbitral award.
- (6) The arbitral award shall be final and binding for the parties to the dispute and shall be executed without delay according to the law of the Contracting Party concerned.

Article 12

Disputes between the Contracting Parties

- (1) Disputes between the Contracting Parties regarding the interpretation or application of the provisions of this Agreement shall if possible be settled through diplomatic channels.
- (2) If both Contracting Parties cannot reach an agreement within six months after the beginning of the dispute between themselves, the latter shall, upon request of either Contracting Party, be submitted to an arbitral tribunal of three members. Each Contracting Party shall appoint one arbitrator, and these two arbitrators shall nominate a chairman who shall be a national of a third State.
- (3) If one of the Contracting Parties has not appointed its arbitrator and has not followed the invitation of the other Contracting Party to make that appointment within two months, the arbitrator shall be appointed upon the request of that Contracting Party by the President of the International Court of Justice.
- (4) If both arbitrators cannot reach an agreement about the choice of the chairman within two months after their appointment, the latter shall be appointed upon the request of either Contracting Party by the President of the International Court of Justice.
- (5) If, in the cases specified under paragraphs (3) and (4) of this Article, the President of the International Court of Justice is prevented from carrying out the said function or is a national of either Contracting Party, the appointment shall be made by the Vice-President, and if the latter is prevented or is a national of either Contracting Party, the appointment shall be made by the most senior Judge of the Court who is not a national of either Contracting Party.
- (6) Subject to other provisions made by the Contracting Parties, the tribunal shall determine its own procedure. Each Contracting Party shall bear the cost of its own member of the tribunal and of its representation in the arbitral proceedings. The cost of the Chairman and the remaining costs shall be borne in equal parts by the Contracting Parties, unless the arbitral tribunal decides otherwise.
- (7) The decisions of the tribunal are final and binding for each Contracting Party.





Article 13

Final provisions

- (1) This Agreement shall enter into force on the day when both Governments have notified each other that they have complied with the legal requirements for the entry into force of international agreements, and shall remain binding for a period of ten years. Unless written notice of termination is given six months before the expiration of this period, the Agreement shall be considered as renewed on the same terms for a period of two years, and so forth.
- (2) In case of official notice as to the termination of the present Agreement, the provisions of Articles 1 to 12 shall continue to be effective for a further period of ten years for investments made before the date of termination.
- (3) This Agreement replaces the Agreement between the Swiss Confederation and the Syrian Arab Republic concerning the Reciprocal Encouragement and Protection of Investments signed in Berne, on June 22, 1977, entered into force on August 10, 1978.

IN WITNESS WHEREOF, the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

Done in duplicate, at *Damascus*, on *May 9, 2007*, in French, Arabic and English language, each text being equally authentic. In case of divergences the English text shall prevail.

For the Swiss Federal Council



For the Government of the
Syrian Arab Republic

