

Agreement Between the People's Republic of China and the Kingdom of Saudi Arabia on the Reciprocal Promotion and Protection of Investments

The Government of the People's Republic of China and the Government of the Kingdom of Saudi Arabia (hereinafter referred to as the Contracting Parties),

Desiring to Promote, Protect and create favorable conditions for investment by investors of a Contracting Party in the territory of the other Contracting Party in accordance with the principles of mutual respect for sovereignty, equality and reciprocal benefits and for the development of economic cooperation between the two countries,

Have agreed as follows:

Article 1

For the purposes of this Agreement,

1. The term "investment"; means every kind of asset owned or controlled and invested by investors of one Contracting Party in the territory of the other Contracting Party according to its laws and regulations, including the following in particular:

- (a) movable and immovable property as well as any other rights such as mortgages, liens and pledges and similar rights;
- (b) shares of companies and other kinds of interests in companies;
- (c) claims to money or to any performance having an economic value associated with investment;
- (d) copyrights, industrial property rights including and not limited to trade marks, patents, industrial designs, know-how, trade names, technological process and goodwill;
- (e) any right conferred by law or under public contract or any license, permits or concessions issued by law.

Any alteration of the form in which assets are invested or reinvested shall not affect their classification as investments, provided that such alteration is not in Conflict with the legislation of the Contracting Party in the territory of which the investment is made.

2. The term "investor" means:

(a) in respect of the People's Republic of China:

- (1) natural persons possessing the nationality of the People's Republic of China;

(2) economic entities established in accordance with the laws of the People's Republic of China and having their seats in the territory of the People's Republic of China;

(b) in respect of the kingdom of Saudi Arabia:

(1) natural persons possessing the nationality of the Kingdom of Saudi Arabia in accordance with the law of the Kingdom of Saudi Arabia;

(2) any entity having or having no legal personality and constituted in accordance with the law of the Kingdom of Saudi Arabia and having its head office in its territory such as corporations, cooperatives, enterprises, companies, institutions, offices, establishment, funds, organizations, business associations and other similar entities irrespective of whether or not they are of limited liability.

(3) Institutions and authorities such as the Saudi Arabian Monetary Agency, Public Funds, Development Agencies and other similar governmental institutions having their head offices in Saudi Arabia.

3. The term "returns"; means the amounts yielded by an investment, such as profits, dividends, royalties, capital gains or any similar fees or payment.

Article 2

1. Each Contracting Party shall in its territory promote as far as possible investments by investors of the other Contracting Party and admit such investments in accordance with its legislation. It shall in any case accord such investments fair and equitable treatment.

2. Neither Contracting Party shall, without prejudice to its laws and regulations in any way, impair by arbitrary or discriminatory measures the management, maintenance, use or enjoyment of investments in its territory of investors of the other Contracting Party.

3. The Contracting Parties shall within the framework of their national legislations give sympathetic consideration and assistance to the applications for the entry of persons of either Contracting Party who wish to enter the territory of the other contracting Party in connections with an investment; the same shall apply to the employment of persons in connection with an investment who wish to enter the territory of the other Contracting Party where the investment is made.

Article 3

1. Each Contracting Party shall grant investments once admitted and investment returns of the investors of the other Contracting Party a treatment not less favorable than that accorded to investments and investment returns of investors of any third state.

2. Subject to its laws and regulations, each Contracting Party shall grant investments once admitted and investment returns of the investors of the other Contracting Party a treatment not less favorable than that accorded to investment and investment returns of its investors.

3. Each Contracting Party shall accord the investors of the other Contracting Party in connection with the management, maintenance, use, enjoyment or disposal of

investments or with the means to assure their rights to such investments like transfers and indemnifications or with any other activity associated with this in its territory, treatment not less favorable than the treatment it accords to the investors of any third state.

4. The treatment mentioned in paras 1, 2 and 3 of this Article shall not include the privileges granted by either Contracting Party to the investors of a third State by virtue of a customs union, a free trade area, an economic union, a common market or an agreement pertaining to the avoidance of double taxation or a border trade facilitating arrangement.

Article 4

1. Investments by investors of either Contracting Party shall enjoy full protection and security in the territory of the other Contracting Party.

2. Investments by investors of either Contracting Party shall not be expropriated, nationalized or subject to similar measures (referred to hereinafter as "expropriation";) by the other Contracting Party except after satisfying the following conditions:

(a) that expropriation or nationalization is for public interest;

(b) to take effect in accordance with local legal procedures;

(c) to take effect without discrimination; and

(d) to take effect against compensation.

3. Compensation provided for in Para 2-(d) of this Article shall be equivalent to the value of the expropriated investment at the time of the declaration of expropriation. Such a compensation has to be freely transferable and paid without undue delay.

4. Investors of either Contracting Party whose investments suffer losses in connection with their investments in the territory of the other Contracting Party owing to war or other armed conflict, revolution, a state of general emergency, revolt or any similar events, shall be accorded treatment not less favorable than that accorded by the latter Contracting Party to the investors a third State.

Article 5

1. Each Contracting Party shall guarantee to the investors of the other Contracting Party the free transfer of payments in connection with investments and investment returns they hold in the territory of the other Contracting Party including:

(a) profits, dividends and other forms of legitimate income;

(b) proceeds from the full or partial liquidation of the investment;

(c) payments effected in accordance with a loan agreement associated with the investment;

(d) returns mentioned in para 3 of Article 1;

(e) Payments against technical assistance, fees of technical services or the charges of the administrative staff;

(f) payments associated with contracted projects;

(g) Gains of the nationals of the other Contracting Party working in a form associated with investment in the territory of each Contracting Party.

2. The aforementioned transfers shall be made at the exchange rate prevailing on the date of transfer in the Contracting Party hosting the investment.

3. For the purpose of this Agreement, exchange rate referred to in the previous para shall be determined in accordance with the official rates agreed with the International Monetary fund or, where such rates do not exist, the official exchange rates for Special Drawing Rights or United States Dollars or any other convertible currency agreed between the Contracting Parties.

Article 6

If a Contracting Party or any related agency makes a payment to an investor under a guarantee it has assumed in respect of an investment made by that investor in the territory of the other Contracting Party, the latter Contracting Party shall recognize the transfer of any right or claim from the investor or any of its affiliates to the former Contracting Party or any related agency.

Article 7

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should as far as possible be settled by consultation through diplomatic channels.

2. If a dispute cannot thus be settled within six months it shall upon the request of either Contracting Party be submitted to an arbitration tribunal.

3. Such arbitration tribunal shall be constituted of three arbitrators. Each Contracting Party shall appoint within two month of the date of receiving from the other Contracting Party a notice in writing requesting arbitration one member and these two members shall agree upon a national of a third State having diplomatic relations with both Contracting Parties. This third arbitrator shall be appointed as Chairman of the arbitration tribunal by the two Contracting Parties.

4. If the arbitration tribunal is not constituted within four months from the date on which either Contracting Party receives a written notice from the other Contracting Party of its intention to submit the dispute to an arbitration tribunal, either Contracting Party has the right, in the absence of any other arrangement, to invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of either Contracting Party or if he is otherwise prevented from discharging the said function, the member of the court next in seniority who is not national of either Contracting Party shall be invited to make the necessary appointments.

5. The arbitration tribunal shall determine its own procedures and reach its decisions according to the provisions of this agreement and the principles of the international law recognized by the two Contracting Parties.

6. The arbitration tribunal shall reach its decisions by a majority of votes. Such a decision shall be final and binding upon the two Contracting Parties. The arbitration tribunal which was constituted for that purpose shall explain the reasons behind its decisions at the request of either Contracting Party.

7. Each Contracting Party shall bear the cost of its own member and the cost of its representative in the arbitration proceedings. The costs of the Chairman and the tribunal shall be borne in equal parts by the Contracting Parties.

Article 8

1. Disputes concerning investments between Contracting Party and an investor of the other Contracting Party, in connection with these investments in the territory of the former Contracting Party, should as far as possible be settled amicably.

2. If the dispute cannot be settled in the way prescribed in paragraph 1 of this Article within six months of the date on which the settling request has been submitted, the dispute may be submitted to the competent court of law of the Contracting Party in whose territory the investment was made, or the dispute on the amount of compensation resulting from nationalization and expropriation be submitted to arbitration under the Convention of 18th March 1965 on the Settlement of Investment Disputes between State and Nationals of Other States. The award shall be binding and shall not be subject to any appeal or remedy other than those provided for in the said Convention. The award shall be enforced in accordance with domestic law.

3. The two Contracting Parties shall refrain from negotiating any affairs in connection with arbitration or legal proceedings through diplomatic channels until such proceedings are finalized and either Contracting Party fails to adhere to the ruling of the arbitration tribunal or the court of law.

Article 9

If the treatment accorded by either Contracting Party, according to its laws and regulations, to investments or activities in connection with investments made by investors of the other Contracting Party is more favorable than that provided for in this Agreement, the more favorable treatment shall be accorded.

Article 10

This Agreement shall apply to investments made before or after effecting this Agreement by investors of either Contracting Party in accordance with the laws and regulations of the other Contracting Party in its territory.

Article 11

1. This Agreement shall enter into force on the first day of the following month after the date on which both Contracting Parties have notified each other in writing that their respective internal legal procedures have been fulfilled. The Agreement shall remain in force for a period of ten years and shall remain in force thereafter for an unlimited period unless denounced in writing by either Contracting Party twelve months before its

expiration. After the expiry of the period of ten years, this Agreement may be denounced at any time by either Contracting Party giving a twelve months' notice.

2. In respect of investments made prior to the date of termination of this Agreement, the provisions of Article 1 to 10 shall continue to be effective for a further period of ten years from the date of termination of this Agreement.

In witness whereof the representatives of both Governments duly authorized have signed this Agreement.

Done in duplicate at Beijing on Feb. 29, 1995 in the Chinese, Arabic and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Government of the People's Republic of China

For the Government of the Kingdom of Saudi Arabia