

**TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE ARAB
REPUBLIC OF EGYPT CONCERNING THE RECIPROCAL ENCOURAGEMENT
AND PROTECTION OF INVESTMENTS**

Signed March 11, 1986 (modified); Entered into Force June 27, 1992

Whereas, the United States of America and the Arab Republic of Egypt (each hereinafter referred to as a "Party"), both recognize the importance of providing mutually beneficial support for the major efforts that each has contributed in fostering international peace both within and beyond their respective regions, and

Whereas, each Party recognizes that economic expansion and development are basic elements in the process of strengthening the efforts for and the bonds of international peace and friendship within an atmosphere of stability and security, and

Whereas, each agrees that economic cooperation through the pursuit of policies and practices which foster bilateral trade and investment, will contribute substantially to the long-term benefit and welfare of the peoples of each Party, and

Recognizing that agreement on a general framework for the encouragement and nondiscriminatory treatment of investments will stimulate the flow of productive capital and technology and thereby provide for a more effective use of capital and technical resources for development needs, further promoting economic stability and durable peace,

Both have resolved to conclude a bilateral Treaty pertaining to the reciprocal encouragement and protection of investments, and

Have agreed as follows:

ARTICLE I

DEFINITIONS

For the purposes of this Treaty,

1. (a) "Company" means any kind of juridical entity, including any corporation, company association, or other organization, that is duly incorporated, constituted, or otherwise duly organized, regardless of whether or not the entity is organized for pecuniary gain, privately or governmentally owned, or organized with limited or unlimited liability.

(b) "company of a Party" means a company duly incorporated, constituted or otherwise duly organized under the applicable laws and regulations of a Party or its political subdivisions in which

(i) natural persons who are nationals of such Party, or

(ii) such Party or its subdivision or its agencies or instrumentalities have a substantial interest.

The juridical status of a company of a Party shall be recognized by the other Party and its subdivisions.

(c) "Investment" means every kind of asset owned or controlled and includes but is not limited to:

(i) tangible and intangible property, including rights, such as mortgages, liens and pledges;

(ii) a company or shares, stock, or other interests in a company or interests in the assets thereof;

(iii) a claim to money or a claim to performance having economic value, and associated with an investment;

(iv) valid intellectual and industrial rights property, including, but not limited to rights with respect copyrights and related patents, trade marks and trade names, industrial designs, trade secrets and know-how, and goodwill.

(v) licenses and permits issued pursuant to law, including those issued for manufacture and sale of products.

(vi) any right conferred by law or contract, but not limited rights to with in the confines of law to search for or utilize natural resources, and rights to manufacture, use and sell products;

(vii) returns which are reinvested.

(d) "own or control" includes ownership or control that is direct or indirect, including ownership or control exercised through subsidiaries or affiliates.

(e) "national" of a Party means a natural person who is a national of a party under its applicable law.

(f) "return" means an amount derived from or associated with an investment, including, but not limited to, profit; dividend; interest; capital gain; royalty payment; management, technical assistance or other fee; and payment in kind.

ARTICLE II

ENCOURAGEMENT AND PROMOTION OF INVESTMENTS

1. Each Party undertakes to provide and maintain a favorable environment for investments in this territory by nationals and companies of the other Party and shall, in applying its laws, regulations, administrative practices and procedures, permit such investments to be established and acquired on terms and conditions that accord treatment no less than that accorded in like situations to investments of nationals or companies of any third country, whichever is more favorable.

2. (a) Each Party shall accord investments in its territory, and associated activities in connection with these investments of nationals or companies of the other Party, treatment no less favorable than that accorded in like situations to investments of its own nationals and companies or to investments of nationals and companies of any third country, whichever is most favorable. Associated activities in connection with an investment include, but are not limited to:

(i) the establishment, control and maintenance of branches, agencies, offices, factories or other facilities for the conduct of business;

(ii) the organization of companies under applicable laws and regulations; the acquisition of companies or interests in companies or in the property; and the management, control, maintenance, use, enjoyment and expansion, and the sale, liquidation, dissolution or other disposition, of companies organized or acquired;

(iii) the making, performance and enforcement of contracts related to investment;

(iv) the acquisition (whether by purchase, lease or any other legal means), ownership and disposition (whether by sale, testament or any other legal means) of personal property of all kinds, both tangible and intangible;

(v) the leasing of real property appropriate for the conduct of business;

(vi) acquisition, maintenance and protection of copyrights, patents, trademarks, trade secrets, trade names, licenses and other approvals or products and manufacturing processes, and other industrial property rights; and

(vii) the borrowing of funds at market terms and conditions from local financial institutions, as well as the purchase and issuance of equity shares in the local financial markets, and, in accordance with national regulations and practices, the purchase of foreign exchange for the operation of the enterprise.

(b) This Treaty shall also apply to investments by nationals or companies of either Party, made prior to the entering into force of this Treaty and accepted in accordance with the respective prevailing legislation of either party.

3. (a) Notwithstanding the preceding provisions of this Article, each Party reserves the right to maintain limited exceptions to the standard of national treatment otherwise required concerning investments or associated activities if exceptions fall within one of the sectors listed in the Annex to this Treaty. Both Parties hereby agree to maintain the number of such exceptions to a minimum. In addition, each Party shall notify the other Party of any specific measures which constitute exceptions to the standard of national treatment provided herein. In no event, however, shall the treatment to be accorded pursuant to any exception be less favorable than that accorded in like situations to investments and associated activities of nationals or companies of any third country. Moreover, no exception, within the sectors contained in the Annex, introduced after the date of entry into force of this Treaty shall apply to investments of nationals or companies of the other Party existing in that sector at the time the exception becomes effective.

(b) Each Party retains the discretion to approve investments according to national plans and priorities on a nondiscriminatory basis consistent with paragraphs (1) and (3)(a) of this Article.

4. The treatment, protection and security of investments shall never be less than that required by international law and national legislation.

5. (a) Subject to the laws relating to the entry and sojourn of aliens, nationals of either Party shall be permitted to enter and to reside in the territory of the other Party for the purpose of establishing, developing, directing, administering or advising on the operations of an investment to which they or the companies that employ them have committed or are in the process of committing a substantial amount of capital or other resources.

(b) Nationals and companies of either Party, and their companies which they own or control in the territory of the other Party, shall be able to engage the managing director of their choice. Further, subject to employment laws of each Party, nationals and companies of either Party shall be permitted to engage, within the territory of the other Party, professional and technical personnel of their choice, for the particular purpose of rendering professional, technical and managerial assistance necessary for the planning and operation of investments.

6. In the context of its national economic policies and objectives, each Party shall seek to avoid the imposition of performance requirements of the investment of nationals and companies of the other Party.

7. Each Party recognizes that in order to maintain a favorable environment for investments in its territory by nationals or companies of the other Party, it should provide effective means of asserting claims and enforcing rights with respect to investment agreements, investments authorizations and properties. Each Party shall grant to nationals or companies of the other Party, on terms and conditions no less favorable than those which it grants in like situations to its own nationals or companies or to nationals or companies of any third country, whichever is the most favorable treatment, the right of access to its courts of justice, administrative tribunals and agencies, and all other bodies exercising adjudicatory authority, and the right to employ persons of their choice, who otherwise qualify under applicable laws and regulations of the forum for the purpose of asserting claims, and enforcing rights, with respect to their investments.

8. Each Party and its subdivisions shall make public all laws, regulations, administrative practices and procedures, and adjudicatory decisions that pertain to [or] affect investments in its territory of nationals or companies of the other Party.

ARTICLE III COMPENSATION FOR EXPROPRIATION

1. No investment or any part of an investment of a national or company of either Party shall be expropriated or nationalized by the other Party or by -a subdivision thereof-or subjected to any other measure, direct or indirect, if the effect of such other measure, or a series of such other measures, would be tantamount to expropriation

or nationalization (all expropriations, all nationalizations and all such other measures hereinafter referred to as "expropriation")-unless the expropriation

- (a) is done for a public purpose;
- (b) is accomplished under due process of law;
- (c) is not discriminatory;
- (d) is accompanied by prompt and adequate compensation, freely realizable; and
- (e) does not violate any specific contractual engagement.

Compensation shall be equivalent to the fair market value of the expropriated investment on the date of expropriation. The calculation of such compensation shall not reflect any reduction in such fair market value due to either prior public notice or announcement of the expropriatory action, or the occurrence of the events that constituted or resulted in the expropriatory action. Such compensation shall include payments for delay as may be considered appropriate under international law, and shall be freely transferable at the prevailing rate of exchange for current transactions on the date of the expropriatory action.

2. If either Party or a subdivision thereof expropriates the investment of any company duly incorporated, constituted or otherwise duly organized in its territory, and if nationals or companies of the other Party, directly or indirectly, own, hold or have other rights with respect to the equity-of such company, then the Party within whose territory the expropriation occurs shall ensure that such nationals or companies of the other Party receive compensation in accordance with the provisions of the preceding paragraph.

3. Except as otherwise provided in an agreement between the Parties, or between a Party and a national or company of the other Party, a national or company of either Party that asserts that all or part of its investment in the territory of the other Party has been expropriated shall have a right to prompt review by the appropriate judicial or administrative authorities of such other Party to determine whether any such expropriation has occurred and, if and any compensation thereof, conforms to the principals of international law.

ARTICLE IV

COMPENSATION FOR DAMAGES DUE TO WAR AND SIMILAR EVENTS

Nationals or companies of either Party whose investments or returns in the territory of either Party suffer

- (a) damages due to war or other armed conflict between such other Party and a third country or
- (b) damages due to any kind of civil disturbance or insurrection in the territory of such other Party,

shall be accorded treatment no less favorable than that which such other Party accords to its own nationals or companies or to nationals or companies of any third country, whichever is the most favorable treatment, when making restitution, indemnification, compensation or other appropriate settlement with respect to such damages.

ARTICLE V TRANSFERS

1. Either Party shall in respect to investments by nationals or companies of the other Party grant to those nationals or companies the free transfer of-

- (a) returns;
- (b) royalties and other payments deriving from licenses, franchises and other similar grants or rights;
- (c) installments in repayment of loans;
- (d) amounts spent for the management of the investment in the territory of the other Party or a third country;
- (e) additional funds necessary for the maintenance of the investment;
- (f) the proceeds of partial or total sale or liquidation of the investment, including a liquidation effected as a result of any event mentioned in Article IV; and
- (g) compensation payments pursuant to Article III.

2. To the extent a national or company of either Party has not made another arrangement with the appropriate authorities of the other Party in whose territory the investment of such national or company is situated, currency transfers made pursuant to Paragraph 1 of this Article shall be permitted in the currency of the original investment or in any other freely convertible currency. Such transfers shall be made at the prevailing rate of exchange on the date of transfer with respect to current transactions in the currency to be transferred.

3. Notwithstanding the preceding paragraphs, either Party may maintain laws and regulations: (a) requiring reports of currency transfer; and (b) imposing income taxes by such means as a withholding tax applicable to dividends or other transfers. Furthermore, either Party may protect the rights of creditors, or ensure the satisfaction of judgements in adjudicatory proceedings, through the equitable, nondiscriminatory and good faith application of the law.

ARTICLE VI CONSULTATIONS AND EXCHANGE OF INFORMATION

1. The Parties shall, upon the written request of either of them, promptly hold consultations to discuss the interpretation or application of this Treaty or to resolve any disputes in connection therewith.

2. Further, for the purpose of reviewing the operation of this Treaty in encouraging investments, consultations should be held biennially between the two Parties. Those consultations should aim at exchanging information and views on the progress regarding investments.

3. If one Party requests in writing that the other Party supply information in its possession concerning investments in its territory by nationals or companies of the Part making the request, then the other Party shall, consistent with its applicable laws and regulations and with due regard for business confidentiality, endeavor to

establish appropriate procedures and arrangements for the provision of any such information.

ARTICLE VII

SETTLEMENT OF LEGAL INVESTMENT DISPUTES BETWEEN ONE PARTY AND A NATIONAL OR COMPANY OF THE OTHER PARTY

1. For purposes of this Article, a legal investment dispute is defined as a dispute involving (i) the interpretation or application of an investment agreement between a Party and a national or company of the other Party; or (ii) an alleged breach of any right conferred or created by this Treaty with respect to an investment.

2. In the event of a legal investment dispute between a Party and a national or company of the other Party with respect to an investment of such national or company in the territory of such Party, the parties shall initially seek to resolve the dispute by consultation and negotiation. The Parties may, upon the initiative of either of them and as a part of their consultation and negotiation, agree to rely upon non-binding, third-party procedures. If the dispute cannot be resolved through consultation and negotiation, then the dispute shall be submitted for settlement in accordance with the procedures upon which a Party and national or company of other Party have previously agreed. With respect to expropriation by either Party, any dispute-settlement procedures specified in an investment between such Party and such national or company shall remain binding and shall be enforceable in accordance with the terms of the investment agreement and relevant provisions of domestic laws of such Party and treaties and other international agreements regarding enforcement of arbitral awards to which such Party has subscribed.

3. (a) In the event that the legal investment dispute is not resolved under procedures specified above, the national or company concerned may choose to submit the dispute to the International Centre for the Settlement of Investment Disputes ("Centre") for settlement by conciliation or binding arbitration, if, within six (6) months of the date upon which it arose: (i) the dispute has not been settled through consultation and negotiation; or (ii) the dispute has not, for any good faith reason, been submitted for resolution in accordance with any applicable dispute-settlement procedures previously agreed to by the Parties to dispute; or (iii) the national or company, has not brought before the courts of justice or administrative tribunal of competent jurisdiction of the Party that is a Party to the dispute.

(b) Each Party hereby consents to the submission of an investment dispute to the Centre for settlement by conciliation or binding arbitration.

(c) Conciliation or binding arbitration of such disputes shall be done in accordance with the provisions of the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States ("Convention") and the Regulations and Rules of the Centre.

4. In any proceeding, judicial, arbitral or otherwise, concerning a legal investment dispute between it and a national or company of the other Party, A Party Shall not assert, as a defense, counterclaim, right of set-off or otherwise, that the national or company concerned has received or Will receive, pursuant to an insurance contract,

indemnification or other compensation for all or part of its alleged damages from any third Party whatsoever, whether public or private, including such other Party and its subdivisions, agencies and instrumentalities. Notwithstanding the foregoing, a national or company of the other Party shall not be entitled to compensation for more than the value of its affected assets, taking into account all sources of compensation within the territory of the Party liable for the compensation.

5. For the purpose of any proceedings initiated before the Centre in accordance with this Article, any company that, immediately prior to the occurrence of the event or events giving rise to the dispute was a company of the other Party, shall be treated as a national or company of such other Party.

6. The provisions of this Article shall not apply to a dispute arising under an official export credit, guarantee, or insurance arrangement, pursuant to which the Parties have agreed to other means of settling disputes.

ARTICLE VIII

SETTLEMENT OF DISPUTES BETWEEN THE PARTIES CONCERNING INTERPRETATION OR APPLICATION OF THIS TREATY

1. Any dispute between the Parties concerning the interpretation or application of this Treaty should, if possible, be resolved through diplomatic channels.

2. If the dispute cannot be resolved through diplomatic channels, it shall, upon the agreement of the Parties, be submitted to the International Court of Justice.

3. (a) In the absence of such agreement, the dispute shall, upon the written request of either Party, be submitted to an arbitral tribunal for binding decision in accordance with the applicable rules and principles of international law.

(b) The Tribunal shall consist of three arbitrators, one appointed by each Party, and a Chairman appointed by agreement of the other two arbitrators. The Chairman shall not be a national of either Party. Each Party shall appoint an arbitrator within 60 days, and the Chairman shall be appointed within 90 days, after a Party has requested arbitration of a dispute.

(c) If the period set forth in (b) above are not met, and in the absence of some other arrangement between the Parties, either Party may invite the President of the International Court of Justice to make the necessary appointment. If the President is a national of either of the Parties or is unable to act for any reason, either Party may invite the Vice President, or if he is also a national of either Party or otherwise unable to act, the next most senior member of the International Court of Justice, to make the appointment.

(d) In the event that an arbitrator is for any reason unable to perform his duties, a replacement shall be appointed within thirty (30) days of determination thereof, utilizing the same method by which the arbitrator being replaced was appointed. If a replacement is not appointed within the time limit specified above, either Party may invite the President of the International Court of Justice to make the necessary appointment. If the President is a national of either of the Parties or is unable to act

for any reason, either Party may invite the Vice President, or if he is also a national of either Party or otherwise unable to act, the next most senior member of the International Court of Justice, to make the appointment.

(e) Unless otherwise agreed to by the Parties to the dispute, all submissions shall be made, and all hearings shall be completed within one hundred and twenty (120) days of the date of the selection of the third arbitrator, and the Tribunal shall render its decision within thirty (30) days of the date of the final submissions or the date of the closing of the hearings, whichever is later, and such decision shall be binding on each Party.

(f) Except as otherwise agreed to by the Parties, arbitration proceedings shall be governed by the Model Rules on Arbitral Procedure adopted by the United Nations International Law Commission in 1958 ("Model Rules") and commended to Member States by the United Nations General Assembly in Resolution 1262 (XIII). To the extent that procedural questions are not resolved by this Article or the Model Rules they shall be resolved by the Tribunal. Notwithstanding any other provision of this Treaty or the Model Rules, the Tribunal shall in all cases act by majority vote.

(g) Each Party shall bear the costs of its own arbitrator and counsel in the arbitral proceeding. Expenses incurred by the Chairman and other costs of the proceedings shall be paid for equally by the Parties. The Tribunal may, however, at its discretion, direct that a higher proportion of the costs be paid by one of the Parties. Such a decision shall be binding.

4. The provisions of this Article shall not apply to a dispute arising under an official export credit, guarantee or insurance arrangement, pursuant to which the Parties have agreed to other means of settling disputes.

ARTICLE IX PRESERVATION OF RIGHTS

1. This Treaty shall not supersede, prejudice, or otherwise derogate from (a) laws, regulations, administrative practices or procedures, or adjudicatory decisions of either Party, (b) international legal obligations, or (c) obligations assumed by either Party, including those contained in an investment agreement or an investment authorization, whether extant at the time of entry into force of this Treaty or thereafter, that entitle investments or associated activities of nationals or companies of the other Party to treatment more favorable than that accorded by this Treaty in like situations.

2. This Treaty shall not derogate from or terminate any other agreement entered into by the two Parties and in force as between the two Parties on the date on which this Treaty enters into force.

ARTICLE X MEASURES NOT PRECLUDED BY TREATY

1. This Treaty shall not preclude the application by either Party or any subdivision thereof of any and all measures necessary for the maintenance of public order and morals, the fulfillment of its existing international obligations, the protection of its own

security interests, or such measures deemed appropriate by the Parties to fulfill future international obligations.

2. This Treaty shall not preclude either Party from prescribing special formalities in connection with the establishment of investments in its territory of nationals and companies of the other Party, but such formalities shall not impair the substance of any of the rights set forth in this Treaty.

ARTICLE XI TAXATION

With respect to its tax policies, each Party should strive to accord fairness and equity in the treatment of investments of nationals or companies of the other Party. Nevertheless, all matters relating to the taxation of nationals or companies of a Party, or their investments in the territories of the other Party or a subdivision thereof shall be excluded from this Treaty, except with regard to measures covered by Article III and the specific provisions of Article V.

ARTICLE XII APPLICATION OF TREATY TO POLITICAL OR ADMINISTRATIVE SUBDIVISIONS OF THE PARTIES

This Treaty shall apply to the political and/or administrative subdivisions of each Party.

ARTICLE XIII ENTRY INTO FORCE AND DURATION AND TERMINATION

1. This Treaty shall be ratified by each of the Parties, and the instruments of ratification thereof shall be exchanged as soon as possible.
2. This Treaty shall enter into force thirty (30) days after the date of exchange of the instruments of ratification. It shall remain in force for a period of ten (10) years and shall continue in force unless terminated in accordance with Paragraph 3 of this Article.
3. Either Party may, by giving one (1) year's written notice to the other Party, terminate this Treaty at the end of the initial ten (10) year period or at any time thereafter.
4. With respect to investments made or acquired prior to the date of termination of this Treaty and to which this Treaty otherwise applies, the provisions of all of the other Articles of this Treaty shall continue to be effective for a further period of ten (10) years from such date of termination.
5. The attached Annex and Protocol are integral parts of this Treaty.

DONE in duplicate at Washington this twenty-ninth day of September 1982* in the English and Arabic languages, both texts being equally authentic.

For the United States of America:
WILLIAM E. BROCK, Jr.

For the Arab Republic of Egypt:
WAJIH SHINDI.

* As modified by the Supplementary Protocol, signed at Cairo, March 11, 1986,

ANNEX

Consistent with Article II paragraph 3, each Party reserves the right to maintain limited exceptions in the sectors it has indicated below

THE UNITED STATES OF AMERICA

Air transportation, ocean and coastal shipping; banking; insurance; government grants; government insurance and loan programs; energy and power production; use of land and natural resources; custom house brokers; ownership of real estate; radio and television broadcasting; telephone and telegraph services; submarine cable services; satellite communications.

THE REPUBLIC OF EGYPT

Air and sea transportation; maritime agencies; land transportation other than that of tourism; mail, telecommunication, telegraph services and other public services which are state monopolies; banking and insurance; commercial activity such as distribution, wholesaling, retailing, import and export activities; commercial agency and broker activities; ownership of real estate; use of land; natural resources; national loans; radio, television, and the issuance of newspapers and magazines.

PROTOCOL*

On signing the Treaty concerning the Reciprocal Encouragement and Protection of Investments, the Arab Republic of Egypt and the United States of America have, in addition, agreed on the following provisions which should be regarded as an integral part of the Treaty:

1. Each Party reserves the right to deny the benefits of this Treaty to any company of either Party, or its affiliates or subsidiaries, if nationals of any third country control such company, affiliate or subsidiary; provided that, whenever one Party concludes that the benefits of this Treaty should not be extended for this reason, it shall

promptly consult with the other Party to seek a mutually satisfactory resolution of this matter.

2. "Control" means to have a substantial share of ownership rights and the ability to exercise decisive influence. Differences as to the existence of control shall be resolved according to the provisions of Article VIII.

3. (a) The treatment accorded by the United States to nationals or companies of Egypt under the provisions of Article II (1) and (2) shall in any State of the United States or other territory, possession, or political or administrative subdivision of the United States be the treatment accorded therein to residents of or companies incorporated, constituted or otherwise duly organized in other States of the United States or territories, possessions, or political or administrative subdivisions of the United States.

(b).The treatment accorded by Egypt to nationals and companies of the United States with respect to the establishment and acquisition of investments in limited sensitive geographic areas designated for exclusive Egyptian investment shall be no less favorable than the treatment it accords to investments of nationals and companies of any third country. Egypt reserves the right to modify the areas covered, provided that such areas will be kept to a minimum and will not substantially impair the investment opportunities of United States nationals and companies.

4. The provisions of Article II, paragraph 3, relating to most favored nation treatment, shall not apply to advantages accorded by either Party to nationals or companies of a third country by virtue of a special security or regional arrangement, including regional customs unions or free trade areas. Further, these provisions do not apply to the ownership of real estate. The provisions of Article II paragraph 1, relating to most favored nation treatment, shall not be construed to oblige one Party to extend to nationals or companies of the other the benefit of any treatment, preference or privilege which may be extended by the former Party by virtue of a customs union or in the field of housing. Moreover, with regard to rights to engage in mining on the public domain, each Party retains the right to accord to nationals or companies of the other Party treatment which is like or similar to that accorded by the other Party to nationals or companies of the first Party.

5. It is understood that this Treaty does not derogate from the rights of either Party regarding the establishment of qualifications as for the practice of professions, including law and accountancy. These qualifications may confine the practice of such professions to nationals or companies of a Party, provided that they are applied on a nondiscriminatory basis; and provided, further, that such nationality requirements do not derogate from the right of nationals and companies of either Party, pursuant to Article II (5)(b) to engage professional and technical personnel of their choice to render professional and technical services necessary for the internal planning and operation of the investment.

6. This Treaty, and in particular, the provisions of Article II, paragraph 5 (b) shall be subjected to the provisions of Article X.

7. With respect to Article II (6), performance requirements are conditions imposed which would require an investor to export a minimum percentage of final product or to source some inputs locally.

8. With regard to Article III, paragraph I(d) the term "prompt" does not necessarily mean instantaneous. The intent is that the Party diligently and expeditiously carry out any necessary formalities.

9. With regard to Article III, paragraph 1, the phrase "events that constituted or resulted in the expropriatory action" refers to conduct attributable to the expropriatory Party and not to conduct of the national or company, The inclusion of subparagraph (e) in Article III, paragraph 1, is without prejudice to the measure of compensation due in the event of expropriation.

10. The Parties recognize that restrictions on transfers abroad of sales or liquidation proceeds of an investment will adversely affect future capital inflows, contrary to the spirit of this Treaty and the interests of the Party imposing those restrictions. Nevertheless, the Parties recognize that it is possible that the Arab Republic of Egypt may find its foreign exchange reserves at a very low level. In these circumstances, the Arab Republic of Egypt may temporarily delay transfers required under Article V, Paragraph I(f), but only: (i) in a manner not less favorable than accorded to comparable transfers to investors of third countries; (ii) to the extent and for the time period necessary to restore its reserves to a minimally acceptable level, but in no case for period of time longer than that permitted by the provisions of Law 43 in force on the date of signature of this Treaty; and (iii) after providing the investor an opportunity to invest the sales or liquidation proceeds in a manner which will preserve their real value free of exchange risk until transfer occurs.

11. Concerning Article VII (3)(a)(ii), it is understood that the Parties to the dispute may previously agree to submission of the dispute to the jurisdiction of domestic courts and tribunals. The Parties will maintain a nondiscriminatory policy regarding the inclusion and implementation of such provisions in any investment contract.

12. With regard to the Annex, the exceptions noted by the Arab Republic of Egypt under "commercial activity" do not include integrated operations which combine production and sales activities for their products.

13. Recognizing that international financial markets and institutions further stimulate the process of economic development through the international transmission of investment and associated technology, each Party undertakes to maintain a favorable environment for investment by nationals or companies of the other Party in the insurance and banking sectors. Therefore, each Party accords to investments by nationals or companies of the other Party in investment banks, merchant-banks and reinsurance companies whose activities are confined to transactions in foreign currencies treatment no less favorable than that accorded under existing laws and regulations to investments by its own nationals and companies or to investments by nationals or companies of any third country, whichever is the more favorable. Both Parties agree to hold future discussions concerning the expansion of investment possibilities in these sectors by nationals or companies of either Party in the territory of the other Party.

DONE in duplicate at Cairo this 11th day of March 1986 in the English and Arabic languages, both texts being equally authentic.

For the Government of the United States of America:

NICHOLAS A. VELIOTES,
Ambassador.

For the Government of the Arab Republic of Egypt:
Sultan ABOU ALI,
Minister of Economy and Trade.

* Text as agreed in Supplementary Protocol, signed at Cairo. March 11, 1986. This replaces the protocol of September 29, 1982

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(i) natural persons who are nationals of such Party, or

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have a substantial interest.

Each Party reserves the right to deny to any of its own companies or to a company of the other Party the advantages of this Treaty, if nationals of any third country own or control such company; provided that whenever one Party believes that the benefits of this Treaty should not be extended to a company of the other Party for this reason, it shall first consult with the other Party to seek a mutually satisfactory resolution of this matter.

The juridical status of a company of a Party shall be recognized by the other Party and its subdivisions.

(c) "Investment" means every kind of asset owned or controlled and includes but is not limited to:

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(f) "return" means an amount derived from or associated with an investment, including profit; dividend; interest; capital gain; royalty payment; management, technical assistance or other fee; and payment in kind.

ARTICLE II ENCOURAGEMENT AND PROMOTION OF INVESTMENTS

1. Each Party undertakes to provide and maintain a favorable environment for investments in its territory by nationals and companies of the other Party and shall, in applying its laws, regulations, administrative practices and procedures, permit such investments to be established and acquired on terms and conditions that accord treatment no less favorable than the treatment it accords to investments of its own nationals or companies or to nationals and companies of any third country, whichever is the most favorable.

2. (a) Each Party shall accord investments in its territory, and associated activities related to these investments, of nationals or companies of the other Party treatment no less favorable than that which it accords in like situations to investments and associated activities of its own nationals or companies, or nationals or companies of any third country, whichever is the most favorable. Associated activities related to an investment include, but are not limited to:

(i) the establishment, control and maintenance of branches, agencies, offices, factories or other facilities for the conduct of business;

(ii) the organization of companies under applicable laws and regulations; the acquisition of companies or interests in companies or in their property; and the management, control, maintenance, use, enjoyment and expansion, and the sale, liquidation, dissolution or other disposition, of companies organized or acquired;

(iii) the making, performance and enforcement of contracts related to investment;

(iv) the acquisition (whether by purchase, lease or any other legal means), ownership and disposition (whether by sale, testament or any other legal means) of personal property of all kinds, both tangible and intangible.

(v) the leasing of real property appropriate for the conduct of business;

(vi) the acquisition, maintenance and protection of copyrights, patents, trademarks, trade secrets, trade names, licenses and other approvals of products and manufacturing processes, and other industrial property rights; and,

(vii) the borrowing of funds at market terms and conditions from local, financial institutions, as well as the purchase and issuance of equity shares in the local financial markets, and, in accordance with national regulations and practices, the purchase of foreign exchange for the operation of the enterprise.

2. (b) Consistent with paragraph 4 to this Article, each Party shall apply the present Treaty to investments in its territory by nationals or companies of the other Party made prior to the entry into force of this Treaty provided such application is not inconsistent with agreements, contractual arrangements, investment authorizations and licenses made under legislation existing at the time the concerned investments were made.

3. Notwithstanding the preceding provisions of this Article, each Party reserves the right to maintain limited exceptions to the standard of national treatment otherwise required concerning investments or associated activities if such exceptions fall within one of the sectors listed in the Annex to this Treaty. Both parties hereby agree to maintain the number of such exceptions to a minimum. In addition, each Party shall notify the other Party of any specific measures which constitute exceptions to the standard of national treatment provided herein. In no event, however, shall the treatment to be accorded pursuant to any exception be less favorable than that accorded in like situations to investments and associated activities of nationals or companies of any third country. Moreover, no exception, within the sectors contained in the Annex, introduced after the date of entry into force of this Treaty shall apply to investments of nationals or companies of the other Party existing in that sector at the time the exception becomes effective.

4. The treatment, protection and security of investments shall never be less than that required by international law and national legislation.

5. (a) Subject to the laws relating to the entry and sojourn of aliens, nationals of either Party shall be permitted to enter and to remain in the territory of the other Party for the purpose of establishing, developing, directing, administering or advising on the operations of an investment to which they or the companies that employ them have committed or are in the process of committing a substantial amount of capital or other resources.

(b) Nationals and companies of either Party, and their companies which they own or control in the territory of the other Party, shall be able to engage the managing director of their choice. Further, subject to employment laws of each Party, nationals and companies of either Party shall be permitted to engage, within the territory of the other Party, professional and technical personnel of their choice, for the particular purpose of rendering professional, technical and managerial assistance necessary for the planning and operation of investments.

6. In the context of national economic policies and the desire to promote investment of all types, both private and public, the Parties recognize that conditions of competitive equality should be maintained where investments owned or controlled within the territory of such Party, are in competition under similar conditions with privately owned or controlled investments of nationals and companies of the other Party.

7. In the context of its national economic policies and objectives, each Party shall seek to avoid the imposition of performance requirements on the investments of nationals and companies of the other Party.

8. Each Party recognizes that in order to maintain a favorable environment for investments in its territory by nationals or companies of the other Party, it should provide effective means of asserting claims and enforcing rights with respect to investment agreements, investment authorizations and properties. Each Party shall grant to nationals or companies of the other Party, on terms and conditions no less favorable than those which it grants in like situations to its own nationals or companies or to nationals or companies of any third country, whichever is the most favorable treatment, the right of access to its courts of justice, administrative tribunals and agencies, and all other bodies exercising adjudicatory authority, and the right to employ persons of their choice, who otherwise qualify under applicable laws and regulations of the forum for the purpose of asserting claims, and enforcing rights, with respect to their investments.

9. Each Party and its political or administrative subdivisions shall make public all laws, regulations, administrative practices and procedures, and adjudicatory decisions that pertain to or affect investments in its territory of nationals or companies of the other Party.

ARTICLE III COMPENSATION FOR EXPROPRIATION

1. No investment or any part of an investment of a national or a company of either Party shall be expropriated or nationalized by the other Party or a political or administrative subdivision thereof or subjected to any other measure, direct or indirect (including, for example, the levying of taxation, the compulsory sale of all or part of such an investment, or impairment or deprivation of management, control or economic value of such an investment by the national or company concerned), if the effect of such other measure, or a series of such other measures, would be tantamount to expropriation or nationalization (all expropriations, all nationalizations and all such other measures hereinafter referred to as "expropriation") unless the expropriation

(a) is done for a public purpose;

(b) is accomplished under due process of law;

(c) is not discriminatory;

(d) is accompanied by prompt and adequate compensation, freely realizable; and

(e) does not violate any specific provision on contractual stability or expropriation contained in an investment agreement between the national or company concerned and the Party making the expropriation.

Compensation shall be equivalent to the fair market value of the expropriated investment on the date of expropriation. The calculation of such compensation shall not reflect any reduction in such fair market value due to either prior public notice or announcement of the expropriatory action, or the occurrence of the events that constituted or resulted in the expropriatory action. Such compensation shall include payments for delay as may be considered appropriate under international law, and

shall be freely transferable at the prevailing rate of exchange for current transactions on the date of the expropriatory action.

2. If either Party or a political or administrative subdivision thereof expropriates the investment of any company duly incorporated, constituted or otherwise duly organized in its territory, and if nationals or companies of the other Party, directly or indirectly, own, hold or have other rights with respect to the equity of such company, then the Party within whose territory the expropriation occurs shall ensure that such nationals or companies of the other Party receive compensation in accordance with the provisions of the preceding paragraph.

3. Except as otherwise provided in an agreement between the Parties, or between a Party and a national or company of the other Party, a national or company of either Party that asserts that all or part of its investment in the territory of the other Party has been expropriated shall have a right to prompt review by the appropriate judicial or administrative authorities of such other Party to determine whether any such expropriation has occurred and, if so, whether such expropriation, and any compensation thereof, conforms to the principles of international law as set forth in this Article.

ARTICLE IV

COMPENSATION FOR DAMAGES DUE TO WAR AND SIMILAR EVENTS

Nationals or companies of either Party whose investments or returns in the territory of either Party suffer

(a) damages due to war or other armed conflict between such other Party and a third country or

(b) damages due to any kind of civil disturbance or insurrection in the territory of such other party, shall be accorded treatment no less favorable than that which such other Party accords to its own nationals or companies or to nationals or companies of any third country, whichever is the most favorable treatment, when making restitution, indemnification, compensation or other appropriate settlement with respect to such damages.

ARTICLE V

TRANSFERS

1. Either Party shall in respect to investments by nationals or companies of the other Party grant to those nationals or companies the free transfer of:

a. returns.

b. royalties and other payments deriving from licenses, franchises and other similar grants or rights.

- c. installments in repayment of loans.
- d. amounts spent for the management of the investment in the territory of the other Party or a third country.
- e. Additional funds necessary for the maintenance of the investment.
- f. the proceeds of partial or total sale or liquidation of the investment, including a liquidation effected as a result of any event mentioned in Article IV; and
- g. compensation payments pursuant to Article III.

2. To the extent a national or company of either Party has not made another arrangement with the appropriate authorities of the other Party in whose territory the investment of such national or company is situated, currency transfers made pursuant to Paragraph 1 of this Article shall be permitted in the currency of the original investment or in any other freely convertible currency. Such transfers shall be made at the prevailing rate of exchange on the date of transfer with respect to current transactions in the currency to be transferred.

3. Notwithstanding the preceding paragraphs, either Party may maintain laws and regulations: (a) requiring reports of currency transfer; and (b) imposing income taxes by such means as a withholding tax applicable to dividends or other transfers. Furthermore, either Party may protect the rights of creditors, or ensure the satisfaction of judgments in adjudicatory proceedings, through the equitable, nondiscriminatory and good faith application of its law.

ARTICLE VI CONSULTATIONS AND EXCHANGE OF INFORMATION

1. The Parties shall, upon the written request of either of them, promptly hold consultations to discuss the interpretation or application of this Treaty or to resolve any disputes in connection therewith. Consultations shall be held should one Party request consultations to discuss the effects on its national interests of laws, regulations, decisions, administrative practices or procedures, or that pertain to or affect investments of in the territory of such other Party, including conditions im on establishment of investments. The consultations will seek to avoid or ameliorate the adverse effects .that these laws, regulations, decisions, administrative practices or procedures, or policies may have on the Party requesting the consultations.

2. Further, for the purpose of reviewing the operation of this Treaty in encouraging investments, consultations should be held biennially between the two Parties. Those consultations should aim at exchanging information and views on the progress regarding investments.

3. If one Party requests in writing that the other Party supply information in its possession concerning investments in its territory by nationals or companies of the Party making the request, then the other Party shall, consistent with its applicable laws and regulations and with due regard for business confidentiality, endeavor to establish appropriate procedures and arrangements for the provision of any such information.

ARTICLE VII

SETTLEMENT OF LEGAL INVESTMENT DISPUTES BETWEEN ONE PARTY AND A NATIONAL OR COMPANY OF THE OTHER PARTY

1. For purposes of this Article, a legal investment dispute is defined as a dispute involving (i) the interpretation or application of an investment agreement between a Party and a national or company of the other Party; or (ii) an alleged-breach of any right conferred or created by this Treaty with respect to an investment.

2. In the event of a legal investment dispute between a Party and a national or company of the other Party with respect to an investment of such national or company in the territory of such Party, the parties shall initially seek to resolve the dispute by consultation and negotiation. The Parties may, upon the initiative of either of them and as part of their consultation and negotiation, agree to rely upon non-binding, third-Party procedures. If the dispute cannot be resolved through consultation and negotiation, then the dispute shall be submitted for settlement in accordance with the applicable dispute-settlement procedures upon which a Party and national or company of the other Party have previously agreed. With respect to expropriation by either Party, any dispute-settlement procedures specified in an investment agreement between such Party and such national or company shall remain binding and shall be enforceable in accordance with the terms of the investment agreement and relevant provisions of domestic laws of such Party and treaties and other international agreements regarding enforcement of arbitral awards to which such Party has subscribed.

3. (a) In the event that the legal investment dispute is not resolved under procedures specified above, the national or company concerned may choose to submit the dispute to the International Centre for the Settlement of Investment Disputes ("Centre") for settlement by conciliation or binding arbitration, if, within six (6) months of the date upon which it arose: (i) the dispute has not been settled through consultation and negotiation; or (ii) the dispute has not, for any good faith reason, been submitted for resolution in accordance with any applicable dispute-settlement procedures previously agreed to by the Parties to the dispute; or (iii) the national or company concerned has not brought the dispute before the courts of justice or administrative tribunals or agencies of competent jurisdiction of the Party that is a Party to the dispute.

(b) Each Party hereby consents to the submission of an investment dispute to the Centre for settlement by conciliation or binding arbitration.

(c) Conciliation or binding arbitration of such disputes shall be done in accordance with the provisions of the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States ("Convention") and the Regulations and Rules of the Centre.

4. In any proceeding, judicial, arbitral or otherwise, concerning a legal investment dispute between it and a national or company of the other Party, a Party shall not assert, as a defense, counterclaim right of set-off or otherwise, that the national or company concerned has received or will receive, pursuant to an insurance contract, indemnification or other compensation for all or part of its alleged damages from any

third Party whatsoever, whether public or private, including such other Party and its political or administrative subdivisions, agencies and instrumentalities.

Notwithstanding the foregoing, a national or company of the other Party shall not be entitled to compensation for more than the value of its affected assets, taking into account all sources of compensation within the territory of the Party liable for the compensation.

5. For the purpose of any proceedings initiated before the Centre in accordance with this Article, any company that, immediately prior to the occurrence of the event or events giving rise to the dispute, was a company of the other Party, shall be treated as a national or company of such other Party.

6. The provisions of this Article shall not apply to a dispute arising under an official export credit, guarantee, or insurance arrangement, pursuant to which the Parties have agreed to other means of settling disputes.

ARTICLE VIII

SETTLEMENT OF DISPUTES BETWEEN THE PARTIES CONCERNING INTERPRETATION OR APPLICATION OF THIS TREATY

1. Any dispute between the Parties concerning the interpretation or application of this Treaty should, if possible, be resolved through diplomatic channels.

2. If the dispute cannot be resolved through diplomatic channels, it shall, upon the agreement of the Parties, be submitted to the International Court of Justice.

3. (a) In the absence of such agreement, the dispute shall, upon the written request of either Party, be submitted to an arbitral tribunal for binding decision in accordance with the applicable rules and principles of international law.

(b) The Tribunal shall consist of three arbitrators, one appointed by each Party, and a Chairman appointed by agreement of the other two arbitrators. The Chairman shall not be a national of either Party. Each Party shall appoint an arbitrator within 60 days, and the Chairman shall be appointed within 90 days, after a Party has requested arbitration of a dispute.

(c) If the periods set forth in (b) above are not met, and in the absence of some other arrangement between the Parties, either Party may invite the President of the International Court of Justice to make the necessary appointment. If the President is a national of either of the Parties or is unable to act for any reason, either Party may invite the Vice President, or if he is a national of either Party or otherwise unable to act, the next most senior member of the International Court of Justice, to make the appointment.

(d) In the event that an arbitrator is for any reason unable to perform his duties, a replacement shall be appointed within thirty (30) days of determination thereof, utilizing the same method by which the arbitrator being replaced was appointed. If a replacement is not appointed within the time limit specified above, either Party may invite the President of the International Court of Justice to make the necessary appointment. If the President is a national of either of the Parties or is unable to act for any reason, either Party may invite the Vice President, or if he is also a national of

either Party or otherwise unable to act, the next most senior member of the International Court of Justice, to make the appointment.

(e) Unless otherwise agreed to by the Parties to the dispute, all submissions shall be made and all hearings shall be completed within one hundred and twenty (120) days of the date of the selection of the third arbitrator, and the Tribunal shall render its decision within thirty (30) days of the date of the final submissions or the date of the closing of the hearings, whichever is later, and such decisions shall be binding on each Party.

(f) Except as otherwise agreed to by the Parties, arbitration proceedings shall be governed by the Model Rules on Arbitral Procedure adopted by the United Nations International Law Commission in 1958 ("Model Rules"), and commended to Member States by the United Nations General Assembly in Resolution 1262 (XIII). To the extent that procedural questions are not resolved by this Article or the Model Rules they shall be resolved by the Tribunal. Notwithstanding any other provisions of this Treaty or the Model Rules, the Tribunal shall in all cases act by majority vote.

(g) Each Party shall bear the costs of its own arbitrator and counsel in the arbitral proceeding. The cost of the Chairman and remaining expenses shall be borne in equal parts by the Parties.

4. The provisions of this Article shall not apply to a dispute arising under an official export credit, guarantee, or insurance arrangement, pursuant to which the Parties have agreed to other means of settling disputes.

ARTICLE IX PRESERVATION OF RIGHTS

1. This Treaty shall not supersede, prejudice, or otherwise derogate from (a) laws, regulations, administrative practices or procedures, or adjudicatory decisions of either Party, (b) international legal obligations, or (c) obligations assumed by either Party, including those contained in an investment agreement or an investment authorization, whether extant at the time of entry into force of this Treaty or thereafter, that entitle investments or associated activities of nationals or companies of the other Party to treatment more favorable than that accorded by this Treaty in like situations.

2. This Treaty shall not derogate from or terminate any other agreement entered into by the two Parties and in force as between the two Parties on the date on which this Treaty enters into force.

ARTICLE X MEASURES NOT PRECLUDED BY TREATY

1. This Treaty shall not preclude the application by either Party or any political or administrative subdivision thereof of any and all measures necessary for the maintenance of public order and morals, the fulfillment of its existing international obligations, the protection of its own security interests, or such measures deemed appropriate by the Parties to fulfill future international obligations.

2. This Treaty shall not preclude either Party from prescribing special formalities in connection with the establishment of investments in its territories of nationals and companies of the other Party, but such formalities shall not impair the substance of any of the rights set forth in this Treaty.

ARTICLE XI TAXATION

With respect to its tax policies, each Party should strive to accord fairness and equity in the treatment of investments of nationals or companies of the other Party. Nevertheless, all matters relating to the taxation of nationals or companies of a Party, or their investments in the territories of the other Party or a political or administrative subdivision thereof shall be excluded from this Treaty, subject, however, to specific provisions of Articles III and V.

ARTICLE XII APPLICATION OF TREATY TO POLITICAL OR ADMINISTRATIVE SUBDIVISIONS OF THE PARTIES

This Treaty shall apply to the political and/or administrative subdivisions of each Party.

ARTICLE XIII ENTRY INTO FORCE AND DURATION AND TERMINATION

1. This Treaty shall be ratified by each of the Parties, and the instruments of ratification thereof shall be exchanged as soon as possible.
2. This Treaty shall enter into force thirty (30) days after the date of exchange of the instruments of ratification. It shall remain in force for a period of ten (10) years and shall continue in force unless terminated in accordance with Paragraph 3 of this Article.
3. Either Party may, by giving one (1) year's written notice to the other Party, terminate this Treaty at the end of the initial ten (10) year period or at any time thereafter.
4. With respect to investments made or acquired prior to the date of termination of this Treaty and to which this Treaty otherwise applies, the provisions of all of the other Articles of this Treaty shall continue to be effective for a further period of ten (10) years from such date of termination.
5. The attached Annex and Protocol are integral parts of this Treaty.

DONE in duplicate at Washington this twenty-ninth day of September 1982 in the English and Arabic languages, both texts being equally authentic.

For the United States of America:
WILLIAM E. BROCK, Jr.

For the Arab Republic of Egypt:
WAJIH SHINDY.

ANNEX

Consistent with Article II Paragraph 3, each Party reserves the right to maintain limited exceptions in the sectors it has indicated below:

THE UNITED STATES OF AMERICA

Air transportation, ocean and coastal shipping; banking; insurance; government grants; government insurance and loan programs; energy and power production; use of land and natural resources; custom house brokers; ownership of real estate; radio and television broadcasting, telephone and telegraph services; submarine cable services; satellite communications.

THE ARAB REPUBLIC OF EGYPT

Air and sea transportation; maritime agencies; land transportation other than that of tourism; mail, telecommunication, telegraph services and other public services which are state monopolies; banking and insurance; commercial activity such as distribution, wholesaling, retailing, import and export activities; commercial agency and broker activities; ownership of real estate; use of land; natural resources; national loans; radio, television, and the issuance of newspapers and magazines.

SUPPLEMENTARY PROTOCOL

The duly authorized Plenipotentiaries of the Parties have agreed upon the following provisions regarding the Treaty between the United States of America and the Arab Republic of Egypt concerning the Reciprocal Encouragement and Protection of Investments, signed in Washington, D.C. on September 29, 1982. The following changes will form an integral part of the Treaty. Upon the completion of the Parties' respective constitutional procedures for approval, these changes will be integrated into a single unified text of the Treaty which will, as modified, be published as the official Treaty text.

ARTICLE I

Paragraph 1(a) is changed to read as follows:

(a) "company" means any kind of juridical entity; including any corporation, company, association, or other juridical entity, that is duly incorporated, constituted, or

otherwise duly organized, regardless of whether or not the entity is duly organized for pecuniary Privately or publicly owned or organized with limited or unlimited liability.

Paragraph I(b) is changed to read as follows:

(b) "company of a Party" means a company duly incorporated, constituted, or otherwise duly organized under the applicable laws and regulations of a Party or its subdivisions in which

(i) natural persons who are nationals of such Party, or

(ii) such Party or its subdivisions or their agencies or instrumentalities have a substantial interest. The Juridical status of a company of a Party shall be recognized by the other Party and its subdivisions.

Paragraph I(c) is changed to read as follows:

(c) investment means every kind of asset, owned or controlled, and includes but is not limited to:

(i) tangible and intangible property, including rights, such as mortgages, liens and pledges;

(ii) a company or shares of stock in a company or interests in the assets thereof,

(iii) a claim to money or a claim to performance having economic value due under an investment agreement;

(iv) valid intellectual and industrial property rights, including, but not limited to, rights with respect to copyrights, patents, trademarks, trade names, industrial designs, trade secrets, know-how, and goodwill;

(v) licenses and permits issued pursuant to law, including those issued for manufacture and sale of products;

(vi) any right conferred by law or contract including, but not limited to , rights, within the confines of law, to search for or utilize natural resources, and rights to manufacture, use and sell products;

(vii) returns which are reinvested.

Paragraph I(d) is changed to read as follows:

(d) "own or control" includes ownership or control exercised through subsidiaries or affiliates.

ARTICLE II

Paragraph 2 is changed to read as follows:

2. (a) Each Party shall accord investments in its territory, and associated activities in connection with these investments, of nationals or companies of the other Party treatment no less favorable than that which it accords in like situations to investments and associated activities of its own nationals or companies, or nationals or companies of any third country, whichever is the most favorable. Associated activities in connection with an investment include, but are not limited to:

(i) the establishment, control and maintenance of branches, agencies, offices, factories or other facilities for the conduct of business;

(ii) the organization of companies under applicable laws and regulations; the acquisition of companies or interests in companies or in their property; and the management, control, maintenance, use, enjoyment and expansion, and the sale, liquidation, dissolution or other disposition, of companies organized or acquired;

(iii) the making, performance and enforcement of contracts related to investment;

(iv) the acquisition (whether by purchase, lease or any other legal means), ownerships and disposition (whether by sale, testament or any other legal means) of personal property of all kinds, both tangible and intangible.

(v) the leasing of real property appropriate for the conduct of business;

(vi) the acquisition, maintenance and protection of copyrights, patents, trademarks, trade secrets, trade names, licenses and other approvals of products and manufacturing processes, and other industrial property rights; and,

(vii) the borrowing of funds at market terms and conditions from local financial institutions, as well as the purchase and issuance of equity shares in the local financial markets, and, in accordance with national regulations and practices, the purchase of foreign exchange for the operation of the enterprise.

(b) This Treaty shall also apply to investments by nationals or companies of either Party, made prior to the entering into force of this Treaty and accepted in accordance with the respective prevailing legislation of either Party.

Paragraph 3 is renumbered as paragraphs 3(a) and 3(b) and changed to read as follows:

3. (a) Notwithstanding the preceding provisions of this Article, each Party reserves the right to maintain limited exceptions to the standard of national treatment otherwise required concerning investments or associated activities if exceptions fall within one of the sectors listed in the Annex to this Treaty. Both Parties hereby agree to maintain the number of such exceptions to a minimum. In addition, each Party shall notify the other Party of any specific measures which constitute exceptions to the standard of national treatment provided herein. In no event, however, shall the treatment to be accorded pursuant to any exception be less favorable than that accorded in like situations to investments and associated activities of nationals or companies of any third country. Moreover, no exception, within the sectors contained in the Annex, introduced after the date of entry into force of this Treaty shall apply to investments of nationals or companies of the other Party existing in that sector at the time the exception becomes effective.

(b) Each Party retains the discretion to approve investments according to national plans and priorities on a nondiscriminatory basis consistent with paragraphs (1) and (3)(a) of this Article.

Paragraph 5(a) is changed to read as follows:

5. (a) Subject to the laws relating to the entry and sojourn of aliens, nationals of either Party shall be permitted to enter and reside in the territory of the other Party for the purpose of establishing, developing, directing, administering or advising on the operations of an investment to which they or the companies that employ them have committed or are in the process of committing a substantial amount of capital or other resources. Paragraph 6 is deleted and paragraphs 7, 8, and 9 are renumbered as paragraphs 6, 7, and 8, respectively.

Paragraph 8 (formerly paragraph 9) is changed to read as follows:

8. Each Party and its subdivisions shall make public all laws, regulations, administrative practices and procedures, and adjudicatory decisions that pertain to affect investments in its territory of the other Party.

ARTICLE III

Paragraph 1 is changed to read as follows:

1. No investment or any part of an investment of a national or company of either Party shall be expropriated or nationalized by the other Party or by a subdivision thereof-or subjected to any other measure, direct or indirect, if the effect of such other measure, or a series of such other measures, would be tantamount to expropriation or nationalization (all expropriations, all nationalizations and all such other measures hereinafter referred to as "expropriation")-unless the expropriation

(a) is done for a public purpose;

(b) is accomplished under due process of law;

(c) is not discriminatory;

(d) is accompanied by prompt and adequate compensation, freely realizable; and

(e) does not violate any specific contractual engagement.

Compensation shall be equivalent to the fair market value of the expropriated investment on the date of expropriation. The calculation of such compensation shall not reflect any reduction in such fair market value due to either prior public notice or announcement of the expropriatory action, or the occurrence of the events that constituted or resulted in the expropriatory action. Such compensation shall include payments for delay as may be considered appropriate under international law, and shall be freely transferable at the prevailing rate of exchange for current transactions on the date of the expropriatory action.

Paragraph 2 is changed to read as follows:

2. If either Party or a subdivision thereof expropriates the investment duly incorporated, constituted or otherwise duly organized in its territory, and if nationals or companies of the other Party, directly or indirectly, own, hold or have other rights with respect to the equity of such company, then the Party within whose territory the expropriation occurs shall ensure that such nationals or companies of the other Party receive compensation in accordance with the provisions of the preceding paragraph.

Paragraph 3 is changed to read as follows:

3. Except as otherwise provided in an agreement between the Parties, or between a Party and a national or company of the other Party, a national or company of either Party that asserts that all or part of its investment in the territory of the other Party has been expropriated shall have a right to prompt review by the appropriate judicial or administrative authorities of such other party to determine whether any such expropriation has occurred and, if so, whether any such expropriation, and any compensation thereof, conforms to the principles of international law.

ARTICLE VI

Paragraph 1 is changed to read as follows:

1. The Parties shall, upon the written request of either of them, promptly hold consultations to discuss the interpretation or application of this Treaty or to resolve any disputes in connection therewith.

ARTICLE VII

Paragraph 4 is changed to read as follows:

4. In any proceeding, judicial, arbitral or otherwise, concerning a legal investment dispute between it and a national or company of the other Party, a Party shall not assert, as a defense, counterclaim, right of set-off or otherwise, that the national or company concerned has received or will receive, pursuant to an insurance contract, indemnification or other compensation for all or part of its alleged damages from any third party whatsoever, whether public or private, including such other Party and its subdivisions, agencies and instrumentalities. Notwithstanding the foregoing, a national or company of the other Party shall not be entitled to compensation for more than the value of its affected assets, taking into account all sources of compensation within the territory of the Party liable for the compensation.

ARTICLE VIII

Paragraph 3(g) is changed to read as follows:

(9) Each Party shall bear the costs of its own arbitrator and counsel in the arbitral proceeding. Expenses, incurred by the Chairman and other costs of the proceedings shall be paid for equally by the Parties. The Tribunal may, however, at its discretion, direct that a higher proportion of the costs be paid by one of the Parties. Such a decision shall be binding.

ARTICLE X

Paragraph 1 is changed to read as follows:

1. This Treaty shall not preclude the application by either Party or any subdivision thereof of any and all measures necessary for the maintenance of public order and morals, the fulfillment of its existing international obligations, the protection of its own security interests, or such measures deemed appropriate by the Parties to fulfill future international obligations.

ARTICLE XI

The paragraph is changed to read as follows:

With respect to its tax policies, each Party should strive to accord fairness and equity in the treatment of investments of nationals or companies of the Party. Nevertheless, all matters relating to the taxation of nationals or companies of a Party, or their investments in the territories of the other Party or a subdivision thereof shall be excluded from this Treaty, except with regard to measures covered by Article III and the specific provisions of Article V.

PROTOCOL

The Protocol is changed to read as follows:

On signing the Treaty concerning the Reciprocal Encouragement and Protection of Investments, the Arab Republic of Egypt and the United States of America, have, in addition, agreed on the following provisions which should be regarded as an integral part of this Treaty:

1. Each Party reserves the right to deny the benefits of this Treaty to any company of either Party, or its affiliates or subsidiaries, if nationals of any third country control such company, affiliate or subsidiary; provided that, whenever one Party concludes that the benefits of this Treaty should not be extended for this reason, it shall promptly consult with the other Party to seek a mutually satisfactory resolution of this matter.

2. "Control" means to have a substantial share of ownership rights and the ability to exercise decisive influence. Differences as to the existence of control shall be resolved according to the provisions of Article VIII.

3. (a) The treatment accorded by the United States to nationals or companies of Egypt under the provisions of Article II(1) and (2) shall in any State of the United States or other territory, possession, or political or administrative subdivision of the United States be the treatment accorded therein to residents of or companies incorporated, constituted or otherwise duly organized in other States of the United States or territories, possessions, or political or administrative subdivisions of the United States.

(b) The treatment accorded by Egypt to nationals and companies of the United States with respect to the establishment and acquisition of investments in limited sensitive

geographic areas designated for exclusive Egyptian investment shall be no less favorable than the treatment it accords to investments of nationals and companies of any third country. Egypt reserves the right to modify the areas covered, provided that such areas will be kept to a minimum and will not substantially impair the investment opportunities of United States nationals and companies.

4. The provisions of Article II, paragraph 3, relating to most favored nation treatment, shall not apply to advantages accorded by either Party to nationals or companies of a third country by virtue of a specific security or regional arrangement, including regional customs unions or free trade areas. Further, these provisions do not apply to the ownership of real estate. The provisions of Article II paragraph 1, relating to most favored nation treatment, shall not be construed to oblige one Party to extend to nationals or companies of the other the benefit of any treatment, preference or privilege which may be extended by the former Party by virtue of a customs union or in the field of housing. Moreover, with regard to rights to engage in mining on the public domain, each Party retains the right to accord to nationals or companies of the other Party treatment which is like or similar to that accorded by the other Party to nationals or companies of the first Party.

5. It is understood that this Treaty does not derogate from the rights of either Party regarding the establishment of qualifications as for the practice of professions, including law and accountancy. These qualifications may confine the practice of such professions to nationals or companies of a Party, provided that they are applied on a nondiscriminatory basis; and provided, further, that such nationality requirements do not derogate from the right of nationals and companies of either Party, pursuant to Article II (5)(b) to engage professional and technical personnel of their choice to render professional and technical services necessary for the internal planning and operation of the investment.

6 This Treaty, and in particular, the provisions of Article II, paragraph 5(b) shall be subject to the provisions of Article X.

7. With respect to Article II (6), performance requirements are conditions imposed which would require an investor to export a minimum percentage of final product or to source some inputs locally.

8. With regard to Article III, paragraph 1(d) the term "prompt" does not necessarily mean instantaneous. The intent is that the Party diligently and expeditiously carry out any necessary formalities.

9. With regard to Article III, paragraph 1, the phrase "events that constituted or resulted in the expropriatory action" refers to conduct attributable to the expropriatory Party and not to conduct of the national or company. The inclusion of paragraph (e) in Article III, paragraph 1, is without prejudice to the measure of compensation due in the event of expropriation.

10. The Parties recognize that restrictions on transfers abroad of sales or liquidation proceeds of an investment will adversely affect future capital inflows, contrary to the spirit of this Treaty and the interests of the Party imposing those restrictions. Nevertheless, the Parties recognize that it is possible that the Arab Republic of Egypt may find its foreign exchange reserves at a very low level. In these circumstances,

the Arab Republic of Egypt may temporarily delay transfers required under Article V, Paragraph 1(f), but only: (i) in a manner not less favorable than that accorded to comparable transfers to investors of third countries; (ii) to the extent and for the time period n to restore its reserves to a minimally acceptable level, but in no case for period of time longer than that permitted by the provisions of Law 43 in force on the date of signature of this Treaty; and (iii) after providing the investor an opportunity to invest the sales or liquidation proceeds in a manner which will preserve their real value free of exchange risk until transfer occurs.

11. Concerning Article VII (3)(a)(ii), it is understood that the Parties to the dispute may Previously agree to submission of the dispute to the jurisdiction of domestic courts and tribunals. The Parties will maintain a nondiscriminatory policy regarding the inclusion and implementation of such provisions in any investment contract.

12. With regard to the Annex, the exceptions noted by the Arab Republic of Egypt under "commercial activity" do not include integrated operations which combine production and sales activities for their products.

13. Recognizing that international financial markets and institutions further stimulate the process of economic development through the international transmission of investment and associated technology, each Party undertakes to maintain a favorable environment for investment by nationals or companies of the other Party in the insurance and banking sectors. Therefore, each Party accords to investments by nationals or companies of the other Party in investment banks, merchant-banks and reinsurance companies whose activities are confined to transactions in foreign currencies treatment no less favorable than that accorded under existing laws and regulations to investments by its own nationals and companies or to investments by nationals or companies of any third country, whichever is the more favorable. Both Parties agree to hold future discussions concerning the expansion of investment possibilities in these sectors by nationals or companies of either Party in the territory of the other Party.

DONE in duplicate at Cairo this 11th day of March 1986 in the English and Arabic languages, both texts being equally authentic.

For the Government of the United States of America:
NICHOLAS A. VELIOTES
Ambassador.

For the Government of the Arab Republic of Egypt:
Sultan ABOU ALI,
Minister of Economy and Trade.

ARAB REPUBLIC OF EGYPT,
MINISTER OF PLANNING AND INTERNATIONAL COOPERATION,

March 11, 1985.

Hon. WILLIAM E. BROCK,

*US. Trade Representative,
Washington, D.C.*

DEAR MR. AMBASSADOR,

As part of the review of the signed Bilateral Investment Treaty prior to its submission for ratification, our two Governments have discussed the question of compensation for expropriation, under Article III. With regard to the issue of compensation, the Government of Egypt understands that in conformity with contemporary international law, compensation pursuant to Article III paragraph 1 shall be determined in a manner consistent with international legal norms and standards rather than norms and standards that are particular to a specific domestic legal system. I would appreciate confirmation that your government shares this understanding.

Sincerely,
Dr. KAMAL AHMED EL GANZOURI,
*Minister of Planning and
International Cooperation.*

THE UNITED STATES TRADE REPRESENTATIVE
Washington, March 11, 1985.

Dr. KAMAL AHMED EL GANZOURI,
Minister of Planning and International Cooperation.

DEAR MR. MINISTER: I have the honor to refer to your letter of March 11, 1985, in which you state that: "With regard to the issue of compensation, the Government of Egypt understands that in conformity with contemporary international law, compensation pursuant to Article II paragraph 1 shall be determined in a manner consistent with international legal norms and standards rather than norms and standards that are particular to a specific domestic legal system." The understanding you express conforms to the understanding of the Government of the United States regarding the determination of the amount of compensation due to an investor pursuant to Article III of the Bilateral Investment Treaty.

Very truly yours,
WILLIAM E. BROCK.

I certify this to be a true copy of the original.
EDWARD ROZYNSKI.