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S O L I C I T O R S

Our reference SK/MOH0041
Your reference

Date 8 July 2011

His Excellency Field Marshall Mohamed
Hussein Tantawi
The Supreme Council of Armed Forces
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Copy to

His Excellency The Prime Minister of the
Arab Republic of Egypt Dr. Essam Sharaf
Magles El Shaab St.,
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By Courier

Your Excellency

**Re : Mr Mohamed Abdel Raouf Bahgat v The Arab Republic of Egypt –
Claim for damages and compensation for breach of obligations
undertaken by the Arab Republic of Egypt under Bilateral Investment
Treaties signed between Finland and the Arab Republic of Egypt.**

1. We act for Mr Mohamed Abdel Raouf Bahgat (“Mr Bahgat”).
2. Mr Bahgat suffered substantial loss and damage arising directly from investments made by him in the Arab Republic of Egypt. He and his investments were subjected to unfair, discriminatory, inequitable treatment and expropriatory measures by Egypt in repeated violations of treaty obligations undertaken by Egypt under the Bilateral Investment Treaties (BIT) signed between Finland and Egypt successively on 5 May 1980 (“BIT 1”) and on 3 March 2004 (“BIT 2”).
3. As a direct result of such repeated treaty violations Mr Bahgat has suffered substantial loss and damage for which Egypt is directly responsible. Pursuant to the investor-protection provisions contained in the BITs (as elaborated further below) we are writing this letter to set out the grounds of Mr Bahgat’s claim against Egypt for repeated treaty violations and,

respectfully, to put before Your Excellency a demand that Mr Bahgat be fully, adequately and promptly compensated for all the substantial losses and damage (in the sum shown below) caused to him by such repeated violations.

4. In this letter we will first briefly explain Mr Bahgat's background and how he came to make investments as a Finnish national in Egypt. We will then set out the nature and extent of the violations of BIT 1 and BIT 2 committed by Egypt. Thereafter we will elaborate on the quantum of Mr Bahgat's claim.

Mr Bahgat

5. Mr Bahgat was born in Cairo, Egypt on the 1st of May 1940 but as from October 1967 he resided in Finland. He became a Finnish citizen on 12 February 1971 and has remained a Finnish national ever since.
6. In 1972 Mr Bahgat set up a successful business in Finland, Finnish Exportation and Importation Centre, exporting Finnish wood products such as sawn timber, wood panels and sheets to the Middle East and the Arab countries. His company's exports to Egypt were increasing rapidly and to promote this business in Egypt Mr Bahgat travelled to Egypt in 1976 as a Finnish Citizen, having taken an entry visa from the Egyptian Embassy in Helsinki.
7. By this time, Mr Bahgat had relinquished his Egyptian nationality. On 6 November 1980, by Decision number 1896 of 1980, the Ministry of the Interior of the Government of Egypt officially permitted Mr Bahgat to acquire (and thereby recognised his) Finnish nationality while not retaining Egyptian nationality. A copy of a letter dated 6 November 1980 from the Directorate for Travel, Migration & Nationality Documents and addressed to Mr Bahgat advising him of this decision and written in Arabic is attached hereto as Annex 1 (together with an English translation).
8. By a separate letter dated 4 January 1981, the Embassy of the Arab Republic of Egypt in Helsinki advised Mr Bahgat that the Ministry of the Interior of the Government of Egypt had requested the Embassy to inform Mr Bahgat about the above Ministerial decision and confirmed that "you will be considered to have lost Egyptian nationality from the date on which you acquire foreign nationality." A copy of the Embassy's letter and its English translation are produced as Annex 2 attached to this letter.
9. Between 1980 and September 1997 Mr Bahgat resided in Egypt as a Finnish national and as a Company Representative of his Finnish company Finnish Exportation and Importation Centre under successive Residence Permits and Work Permits issued to him from time to time by the Egyptian Ministry of Interior of the Government of Egypt. In 1997 an involuntary acquisition of Egyptian nationality (whilst still remaining a Finnish national) was forced upon Mr Bahgat in the circumstances set out below.

The Aswan Iron Ore Project

10. In 1997 the Government of Egypt was looking for investors to invest in the exploitation and processing of the newly discovered iron ore reserves in a region about 60 kilometres south east of Aswan, in the eastern desert of Egypt. Mr Bahgat applied to invest in the project as a Finnish national.

11. His proposal for the development of the iron ore reserves, which at the time the Egyptian Government represented to be around 483 million tonnes and situated in an area of around 2840.22 square kilometres, was selected by the Government of Egypt from amongst the rest as he was alone in proposing to mine the ore and manufacture steel and iron therefrom in new state of the art facilities to be built on site, with know how and technology provided by the most advanced foreign companies in the relevant field of engineering and bringing in his large foreign inward investments into Egypt.
12. Mr Bahgat's proposal put forward the most creative and resourceful method for the commercial utilisation of the mineral resources to be sourced from the Aswan region. To give an example of how Mr Bahgat's proposal was undoubtedly the more beneficial to the national economic interests of Egypt than those put forward by his competitors the following need be mentioned.
13. The main rival to Mr Bahgat's bid to secure the mining rights in the Aswan region was Mr Ahmed Ezz. Mr Ezz had proposed to mine the ore and ship it to China. That would have meant that Mr Ezz alone would have pocketed the profits from that sale of a valuable natural mineral resource mined in Egypt. That proposal would have made no difference whatsoever to the very high prices which Egyptians continued to pay for the substantial imports of foreign steel ingots and rebars brought into Egypt and resold at even higher prices by businessmen like Mr Ezz within Egypt, thereby earning him millions of US Dollars in personal profits. Mr Ezz's proposal would *not* have added to Egypt's indigenous ability to produce steel and iron from her own natural resources and add to Egypt's inventory of scientific knowledge-base, technical know how and engineering capabilities in the production of high quality steel and iron products.
14. Mr Bahgat's proposal on the other hand sought to make the best economic use of Egypt's own natural mineral resources. As the ore mined in Egypt would have had a much lower and fixed price (in comparison to the high and unstable prices paid for imported steel) during the lifetime of the project, Mr Bahgat's proposal projected to manufacture steel and iron in its own mills within Egypt and sell these in part in Egypt at prices cheaper than the prices paid for imported steel. This would have meant that steel and iron prices within Egypt would have been brought down substantially thereby increasing the local business' ability to grow their own infra-structural facilities and plants at a much cheaper cost. That in turn would have increased the nation's overall industrial capacity, her ability to increase domestic economic expansion and thereby act as a stimulus for substantial job-creation and employment.
15. This potential for creating jobs for thousands of Egyptian citizens residing in the Aswan region, spinning off even more opportunities for creating many more industrial and tertiary new businesses in the area, was found to be more congenial to Egypt's national and economic interests than the proposal put forward by Mr. Ahmed Ezz, which was to ship the ore to China and make a personal fortune even if that continued to make Egypt economically sub-servient. Egypt therefore accepted Mr Bahgat's proposal as being the best suited for her own economic development.
16. Egypt knew that Mr Bahgat was a Finnish national at the time and was proposing to invest his resources from abroad as a Finnish national. The late Minister of Industry Mr Soliman Reda and his department were suitably impressed by Mr Bahgat's proposal and was particularly enthused by the proposal's potential to create thousands of jobs in the Aswan region. However Mr Soliman Reda, the Minister of Industries imposed three pre-conditions to Mr Bahgat being given the Aswan Iron Ore project. The three pre-conditions were

- a. That Mr Bahgat had to take on Egyptian nationality (whilst remaining a Finnish national) as a pre-condition to being allowed to proceed with the project. In orally insisting that Mr Bahgat take on Egyptian nationality as a precondition to the admission of his investment into Egypt, Egypt acted in breach of both Egyptian law and its treaty obligations;
 - b. That Mr Bahgat had to allocate to each of Bank Misr and Al Sharq Insurance Company 5% of share holdings in the project company (ADEMCO) so that the Egyptian Government had at least 10% of the share holding in the project company; and
 - c. That each of Bank Misr and Al Sharq Insurance Company had to be given the right to appoint one Board member each so that these two board members could act as the Egyptian Government's eyes and ears in all the future deliberations of the Board of Directors running the Aswan Iron Ore Project company.
17. Mr Bahgat had no inclination at the time to take on Egyptian nationality having had earlier obtained a formal confirmation from the Egyptian Government of the fact that he had had given up that nationality. Having found no alternative to the late Minister's unchanging demands and with a view to avoiding having to put to waste so much effort and resources spent already in creating the bold industrial blue print for success in the Aswan iron ore project involving so many distinguished multi-national enterprises from abroad, Mr Bahgat was compelled to accede to all of the Minister's demands. His Egyptian nationality was returned to him by Decision number 10815 of 1997 made by the Minister of Interior of the Government of Egypt on 28 September 1997 on instructions from the Minister of Industries. At all material times, however, Mr Bahgat's dominant and effective nationality was, and remains to this day, Finnish and he made investments as a Finnish national and under protections and guarantees given by Egypt under its investment treaty obligations.

Mr Bahgat's investments

18. On or about 24 December 1997 the General Authority for Investments & Free Zones, an Egyptian Government authority, passed a resolution authorizing the establishment of the Egyptian company Aswan Development and Mining Company ("ADEMCO"). ADEMCO was given the right to search for, mine and manufacture iron and steel from iron ore obtained for a period of 25 years between 3rd January 1998 and 2nd January 2023. We attach a copy of the relevant resolution and the enclosed Memorandum and Articles of Association of ADEMCO as Annex 3. ADEMCO was registered as a corporate entity under Egyptian law on 3 January 1998.
19. In view of the size of the overall investment required to be made for the completion of the project, the Egyptian parliament passed a statute authorizing ADEMCO to mine and exploit iron ore and manufacture iron and steel in the Aswan region and a copy of Law No 166 for 1998, passed by the Egyptian parliament and signed by the then President Mr Mubarak dated 14 June 1998, is shown as Annex 4 hereto. Law No 166 for 1998 had attached to it a Commitment Agreement to be entered into between the Ministry of Industries and ADEMCO under which the Ministry granted ADEMCO the sole right to mine in the designated region for a period of 30 years beginning with the date of acceptance by the Ministry of a project Feasibility Study report. This Commitment Agreement was signed by the Chief of the General Authority for Geological Survey of Egypt in the presence of the then Minister of Industry on 14 June 1998.

20. As per the requirements of the Minister of Industries Mr Soliman Reda and for no other reason, Mr Bahgat gave 5% of the issued share holdings in ADEMCO to each of Bank Misr and Al Sharq Insurance company. Both of these entities were also allowed to appoint one representative each in ADEMCO's Board of Directors so that they could report on ADEMCO's operations to the Egyptian Government.
21. Mr Bahgat obtained the required Feasibility Study report dated 22 January 1999 prepared by UEC USX Engineers & Consultants Inc.. The well respected Consultant Engineers expressed the view that the end result of the feasibility study was "very positive" and the "...financial return for those parties investing in this project is considered excellent...". According to Mr Bahgat's best recollection the Feasibility Study report was duly delivered to and accepted by the Ministry of Industry in February 1999. ADEMCO therefore had the statutory and sole right to mine iron ore in the designated area up to 2029. A copy of the Feasibility Report is shown as Annex 5.
22. At an extraordinary general meeting of ADEMCO held on 21 July 1998 the share holders of ADEMCO decided to establish another company Aswan Iron & Steel Company with an authorized capital of 2 billion Egyptian pounds and an issued capital of 816 million Egyptian pounds. It was thought that as ADEMCO was involved in the exploration and mining of iron ore and possibly other metals and minerals in the near future, Aswan Iron & Steel Company would simply concentrate on the business of manufacturing iron and steel in mills and plants constructed for that purpose. Later in September 1998 Aswan Iron & Steel Company ("AISCO") was incorporated. A Resolution authorizing the incorporation of AISCO was passed by the General Authority of Investment & Free Zones on 9 September 1998. AISCO was registered as a corporate entity under Egyptian law on 10 September 1998 (Annex 6).
23. ADEMCO paid 7.5 million Egyptian pounds for the right to mine iron ore in an area of 2840 square kilometers and purchased 5 million square meters of land at the price of 3 Egyptian pounds per square meter to house the plant complex and staff's accommodation village.
24. Mannesman Demag of Germany started designing and planning the construction of the Steel plant. Inter-plant roads of around 18.5 kms length and 12 meters width were constructed on site. Several temporary generators were erected, a heliport and staff accommodations quarters were built. Met-Chem, a well known Canadian company world renowned for its expertise in iron ore mining continued to search for and discover iron ore reserves in the large mining area in cooperation with the Egyptian General Organisation for Geological survey.
25. Mr Bahgat was and remains to this day one of the principal shareholders in ADEMCO. Mr Bahgat invested in excess of US \$ 26 million from his own resources in the project, in setting up the two companies ADEMCO and AISCO. Of this total amount he invested at least around US \$ 21,075,000 into ADEMCO/AISCO in February and March 1998 when he paid that sum (as part of the total sum of US \$30 million paid to Mannesman Demag) by two cheques drawn on an account in Barclays Bank in London. Copies of the two cheques were presented before the Supreme State Security Court during the trial held on 11 June 2002 and in its judgement the Court confirmed having had sight of the two above mentioned cheques presented before the Court by the Prosecution and accepted that all facts and documents put before it proved that such payment had been made (See Annex 7 attached).
26. Mr Bahgat owns 70.25% of the shares in ADEMCO which owns in excess of 84% of the shares in AISCO. The authorized capital of ADEMCO was 2000 million Egyptian pounds

with an issued capital of 571,200,000 Egyptian pounds of which paid up capital was 114,240,000 Egyptian pounds.

27. Shares in a locally incorporated company fall expressly within the definition of investment in Art 1 of both BIT 1 and BIT 2. Art 1 of both BITs defines investment as “every kind of asset” and expressly includes shares. Mr Bahgat’s shares in ADEMCO were protected investments under both BIT 1 and BIT 2. Further, investment treaty jurisprudence affirms that a foreign shareholder in a locally incorporated company can claim for losses suffered by a locally incorporated company due to BIT breaches.

Egypt’s oppressive treatment of Mr Bahgat and his investments

28. The UEC Feasibility Study dated 22 January 1999 gave a glowing forecast of the future profitability of the Aswan iron ore project and estimated that exploration work carried out up to that time showed that around 56 million tonnes of mineable iron ore resources were available in the designated area. The Met-Chem Executive Summary report produced in November 1999 however showed that the total amount of resources discovered in the area up to the date of that report was in excess of 200 million tonnes. These higher deposits were discovered by the implementation by Met-Chem of a diamond drilling programme in the area. Thus the prospects looked even brighter in November 1999 when the Aswan Iron ore project was on course to fruition in rapid strides.
29. From the text of a Report dated 6 February 2000 prepared by a Committee formed by a resolution of the General Investment and Free Zones Authority (“GIA”) dated 5 January 2000, it appears that the Aswan Iron Ore project came under the negative scrutiny of the Egyptian state authorities as from the beginning of January 2000. The GIA Committee under the Chairmanship of Mr Salah El-deen Mandour apparently scrutinized the books of account of both ADEMCO and AISCO and reported on 6 February 2000 that it had found, amongst other things, no evidence that Mr Bahgat and his co-shareholder Mr Mohamed Ali Ebrahim Shimi together had paid 54 million German marks (equivalent at the time to US \$ 30 million) to Mannesman Demag on behalf of ADEMCO/AISCO. This allegedly meant that the books of accounts of both of these companies allegedly gave an inflated view of the capital paid up in cash position of these companies. A copy of the GIA Committee’s report dated 6 February 2000 is attached as Annex 8.
30. Before the GIA Committee report was written and submitted, Mr Bahgat was arrested by the Egyptian Police and taken to prison on 5 February 2000 apparently for questioning but without any charge. A travel ban was imposed on him and on members of his family. All documents, computers, records and files were removed by the Public Prosecution Service and police from Mr Bahgat’s residence and office premises.
31. Thereafter on 19 February 2000 the Egyptian Public Prosecutor made a freezing order freezing all assets, bank accounts, the sale and disposal of all moveable and immoveable properties including liquid cash against Mr Bahgat and his family, another shareholder Mr. Shimi, ADEMCO and AISCO. This freezing order was confirmed by a court order dated 4 March 2000. Mr Bahgat remained in prison custody. The Egyptian Police set up check points manned by border guards on the way leading to the ADEMCO/AISCO site and refused permission to all staff from ADEMCO and AISCO to enter the site. All operations and work in the two companies ADEMCO and AISCO were brought to an abrupt halt without any justifiable cause and on the fiat of the Public Prosecution Service of Egypt.

32. Thereafter on 15 January 2001 Mr Bahgat was sentenced to 15 years of hard labour by the Supreme State Security Court when it upheld allegations of criminal charges brought against him by the Public Prosecution Service of Egypt. This decision was challenged on appeal by Mr Bahgat before the Court of Cassation which dismissed the lower court's verdict and ordered a new trial before a bench constituted of different judges.
33. A new trial against Mr Bahgat by the Egyptian Public Prosecution Service was held on 11 June 2002 before the Supreme State Security Court, which dismissed all the allegations and ordered an acquittal of Mr Bahgat. A copy of the judgement delivered by that court with an English translation is shown as Annex 7.
34. Interestingly, it will appear from that judgement that although giving evidence for the Public Prosecution at the second trial, Mr Salah El-Deen Mandour testified at the trial that Mr Bahgat and Mr Shimi had indeed paid US \$ 30 million by two cheques dated 26/2/1998 and 6/3/1998 to Mannesman Demag of Germany as they had claimed. It will be recalled that Mr Mandour had denied that this payment had been made to Mannesman Demag when filing the GIA Committee report dated 6 February 2000. The Public Prosecution and the Police in Egypt seemingly sought at the material time to vindicate its false imprisonment of Mr Bahgat and the closure of ADEMCO/AISCO operations by placing reliance upon this pivotal GIA Committee report. Mr Mandour's retraction of his earlier false evidence given in the GIA Committee report however did not persuade the state authorities of Egypt to relent their illegal harassment and maltreatment of Mr Bahgat and the forced freezing of all ADEMCO and AISCO operations.
35. The Public Prosecution appealed the 11 June 2002 acquittal of Mr Bahgat to the Court of Cassation. Mr Bahgat was released from prison in March 2003. In June 2005 Mr Bahgat's travel ban was lifted by court order and immediately Mr Bahgat returned to his home country Finland on 23 June 2005. Mr Bahgat has never returned to Egypt since and has been afraid to do so.
36. On 16 May 2006 the Court of Cassation dismissed the Public Prosecution's appeal against the order of the Supreme State Security Court acquitting Mr Bahgat.
37. Thereafter on or about 11th October 2006 the freezing order confirmed by the court on 4 March 2000 was lifted by further court order. A copy of the order lifting the freezing order is shown as Annex 9 hereto. Although the court order lifted the freezing order the State of Egypt refused to comply with the terms of the court order lifting the freezing order. Until this day, and in continuing breach of its court order, Egypt continues to deny any member or ex-employee of ADEMCO or AISCO access to the company-sites or their bank accounts. Egypt also refused to hand over or release the mines and the sites to ADEMCO and AISCO. The vast land area in which ADEMCO and AISCO had the sole mining rights by virtue of a statute passed by the Egyptian parliament remained inaccessible and out of bounds to ADEMCO, AISCO and their shareholders since February 2000.
38. Mr Bahgat has also been advised by ex-employees of ADEMCO and AISCO that all cars, plants, buildings left in the project site as in February 2000, and which were supposed to be under the custody and protection of Egyptian authorities, have been removed or stolen.
39. It is fairly common knowledge in Egypt and has been widely reported in the Egyptian press that the Aswan Iron Ore project and its future profitability were seen as a formidable threat to

the future viability of the “steel empire” of Mr Ahmad Ezz, a well known close associate of the ex President of Egypt Mr Hosni Mubarak and his son Mr.Gamal Mubarak. As was reported in *Al- Shari weekly*, issue no 87, on 4 March 2011 (copy article is shown as Annex 10)

“A decision was taken to wreck the project and deprive the south of more than three thousand direct job opportunities and ten thousand indirect job opportunities in the form of transport and food, so that Ezz’s monopoly would not be affected. This was with the personal blessing of the former President and his Prime Minister Atef Obeid who took it upon himself to wreck this major project after the government of Dr Kemal Al-Ganzouri had approved the construction of an iron works in the area of Al-Alaqi south-east of Aswan.”

And later the article went on to say

“ Suddenly along came Ezz with his sword to assassinate the government of Al-Ganzouri who had adopted the project, and Atef Obeid to wreck the scheme completely. He threw the Egyptian investors into prison on no specific charge, accusing them of trying to encroach upon the Ezz empire. Due to the influence of the Ezz-Obeid pair on the former President, Mubarak himself announced that the Aswan iron project was spurious, no more than an attempt to misappropriate the funds of the banks. The President forgot that it was he himself who gave a rousing speech in Aswan about the benefits of this huge project, that it was he who supervised the studies and plans for the project, and that he had even gone to the worksite to inaugurate the project...”

40. Egypt acting through its Public Prosecution and Police abused its police powers and judicial authority to incarcerate Mr Bahgat on false and groundless allegations raised to debar him from running and managing the hugely promising companies ADEMCO and AISCO into which he had invested very substantial amounts of his personal wealth. ADEMCO and AISCO’s operations were brought to a halt without reason and on the basis of false allegations. As a result the operations of both ADEMCO and AISCO have been shut down completely since February 2000. As a direct result, all of Mr Bahgat’s investments made into these companies were utterly wasted and all his legitimate investment-backed-expectations of earning recurring and substantial returns were destroyed.
41. Later when the Egyptian courts dismissed the false allegations made by the State Prosecution Service, acquitted Mr Bahgat and lifted the freezing order, the State still continued to deny access to the working and mining sites of ADEMCO and AISCO, in flagrant breach of domestic court orders.
42. It was common knowledge in Egypt that all these oppressive and abusive acts were committed by the State with the sole objective of obliterating the healthy competition and challenge posed by both ADEMCO and AISCO to the financial viability and the long term future of the steel business empire run by Mr. Ahmed Ezz who was known to be a close associate of the ex President of Egypt Mr Hosni Mubarak and his son Mr. Gamaal Mubarak. It became obvious that Egypt was determined to and made abusive use of its police powers against Mr Bahgat and his investments in Egypt with a view to simply protecting the business interests of someone closely connected to the ex President of Egypt.

Egypt's violations of its investment treaty obligations

43. Egypt and Finland have signed two bilateral investment treaties since 1980. BIT 1 was signed on 5 May 1980 and came into force on 22 January 1982. BIT 2 was signed on 3 March 2004 and came into force on 5 February 2005. BIT 1 and BIT 2 are attached as Annexes 11 and 12 respectively.
44. Both BITs provide Finnish investors in Egypt legally enforceable investment protections. Mr Bahgat qualifies as a “national” under BIT 1 and an “investor” under BIT 2 and is therefore entitled to the protections of the BITs. Both BITs provide for fair and equitable treatment (Art. 2.1, BIT 1 and Art. 2(2), BIT 2); most-favoured-nation treatment (Art. 2.2, BIT 1 and Art. 3.2, BIT 2); and the prohibition on uncompensated expropriation (Art. 3, BIT 1 and Art. 5.2, BIT 2). BIT 2 sets out a series of further express obligations (full and constant protection and security (Art. 2(2)); protections against impairment by unreasonable or arbitrary measures (Art. 2(3)); national treatment (Art. 3(1)); protection against the imposition of mandatory measures (Art. 3(4)); more favourable treatment (Arts. 3(3) and 12(1)); and observance of obligations (Art. 12(2)).
45. With respect to temporal application, Article 13 of BIT 2 said that “ This Agreement shall apply to all investments made by the investorswhether made before or after the entry into force of this Agreement, but shall not apply to any dispute concerning an investment which arose or any claim which was settled before its entry into force.” Further, Article 17(2) of BIT 2 said that “ Upon its entry into force, the present Agreement substitutes and replaces the Agreement between the Government of the Republic of Finland and the Government of the Arab Republic of Egypt....on 5 May 1980.”
46. Under these provisions, Mr Bahgat is entitled to invoke investor-state arbitration under Art. 9 of BIT 2 with respect to “any dispute arising from an investment”. Article 9(2) provides that:
- “if the dispute has not been settled within three (3) months from the date on which it was raised in writing, the dispute may, at the choice of the investor, be submitted: (d) to any ad hoc arbitration tribunal which unless otherwise agreed on by the parties to the dispute, is to be established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).”
47. By this letter, Mr Bahgat formally raises a dispute regarding the Government of Egypt's breaches of BIT 1 and BIT 2 and, in accordance with Art. 9(1) of BIT 2 seeks that the dispute “be settled amicably”. In addition, and, in the alternative, he also seeks that his dispute be subject to negotiations with the Government in accordance with Art. 7(1) of BIT 1. If Egypt fails to settle Mr. Bahgat's claims within three months, Mr Bahgat will invoke investor-state arbitration under Art. 9(2)(d) of BIT 2 for violations of both BIT 1 and BIT 2. In addition, and in the alternative, he will also invoke investor-arbitration under Art. 7 of BIT 1.
48. Through its conduct, Egypt has acted in complete violation of its obligation under the BITs. Further, Egypt has breached guarantees to investors under its Investment Law No 8 of 1997. This Egyptian statute guaranteed to investors in Egypt amongst other things that

“ Art. 8 – Companies and firms may not be nationalised or confiscated.

Art.9 - Companies and firms may not be sequestered or have their assets attached, seized, distrained, frozen or confiscated by administrative means.

Art.12 - Companies and firms shall be entitled to acquire the necessary building land and built properties to carry on or expand their business, whatever the nationality, domiciles or percentage participation of the partners.”

49. Egypt’s false imprisonment of Mr Bahgat and the closure of the businesses and trading of ADEMCO and AISCO, initially made under the cloak of false allegations and arrest and seizure court-proceedings in 2000, were illegal and wrongful acts under domestic law and more importantly, in breach of the Egypt’s treaty obligations, in particular the obligation to provide fair and equitable treatment. Egypt failed to protect the legitimate expectations of Mr Bahgat as an investor, acted in bad faith and in an arbitrary and unreasonable way. There were no legitimate, established and transparent grounds for Egypt to take such measures as they adopted in this case to bring down, with brute force, the shutters on the Aswan Iron ore project. The fictional charges raised in criminal proceedings brought against Mr Bahgat were found to be groundless by the Egyptian courts and dismissed. The Courts lifted the freezing order in October 2006 and yet Egypt continued to defy the court orders requiring the total return of all ADEMCO and AISCO assets to the two companies and to its management and Boards.
50. Besides after the freezing order was lifted in 2006 it was discovered that all the assets, plant, machinery, vehicles and buildings which were taken under the control and custody of the Egyptian state police, were gone. Egypt was in *de jure* and *de facto* control of the investment during this period. Throughout the time, Egypt failed to accord fair and equitable treatment and full and constant protection and security. Egypt’s conduct and its treatment of the investor and investment were discriminatory, arbitrary and unreasonable. Egypt imposed mandatory measures in breach of treaty obligations and failed to perform treaty obligations with respect to the investment.
51. As for the seizure of all of ADEMCO and AISCO’s assets by Egypt, initially these were carried out under the cloak of freezing orders obtained from courts in reliance upon what was later shown to be false allegations. Mr Bahgat was deprived of these assets and of his rights as a shareholder in ADEMCO and AISCO and this deprivation became manifest and permanent in October 2006 when the freezing order was lifted by the local court order and yet Egypt refused to return these assets to Mr Bahgat. Egypt deprived Mr Bahgat of his right to control the investment, the management of day to day operations of ADEMCO and AISCO, interfered in the administration, impeded in the normal trading of the companies, in earning profits and market share, in building a major and well recognised trading brand name in Egypt and internationally and in the distribution of dividends. Egypt did so in clear breach of Article 5 of BIT 2. Egypt never claimed that it had to do what it did for a public purpose and after payment of prompt, adequate and effective compensation because it carried out this expropriation and dispossession without any offer to pay any compensation and for an ulterior motive which was not for the public good.
52. This summary of Mr Baghat claims for breaches of Egypt’s BIT obligations is without prejudice to the formal presentation of claims under the investor-state arbitration provisions of the BITs.

Mr Bahgat's loss and compensation claimed

- 54 It is an established principle of international law that any breach of a treaty obligation involves an obligation on the part of the state committing the breach to compensate the victim for all loss and damage suffered by him as a result of the state's wrongful act.
- 55 Egypt acted in blatant breach of its obligations undertaken under both BIT 1 and BIT 2. We have identified the specific nature of the breaches committed by Egypt above. These breaches continue to subsist as we write this letter.
- 56 In the circumstances Mr Bahgat is entitled to be fully and adequately compensated by Egypt for all the loss and damage suffered by him beginning from February 2000. In Mr Bahgat's case any compensation receivable by him must as a matter of law reflect the monetary value of the loss of his net investment of US \$ 26 million invested into the Aswan Iron Ore project; Egypt's failure to accord fair and equitable treatment guaranteed to all Finnish investments in Egypt; the total destruction of his legitimate expectations to earn substantial and recurring returns on his investment during the lifetime of the project and Egypt's illegal and creeping expropriation as described above.
- 57 With a view to reaching an amicable resolution of this claim and entirely without prejudice to his right to claim a higher sum (than set out in this paragraph) as damages and compensation should this matter need be pursued in a formal arbitration, Mr Bahgat is currently willing to accept US \$ 311 millions (US Dollars three hundreds and eleven millions) as compensation for all the loss and damage arising from Egypt's aforesaid breaches of her treaty obligations.
- 58 We look forward to receiving your earliest proposal in writing setting out how soon and when exactly Egypt is going to pay the above requested amount as compensation to our client in compliance with her treaty obligations and international law.
- 59 Our client would prefer to reach an amicable resolution on this matter with Egypt and we are willing to meet your authorised representatives in London or in any other neutral jurisdiction with a view to reaching such an amicable resolution.
- 60 Please note that nothing said in this letter should be read as any waiver of Mr Bahgat's rights and claims. Indeed Mr Bahgat expressly reserves all his rights and claims.

We remain, Your Excellency, most obliged for your kind attention.

Yours truly

Balsara & Co.

Enclosures : Annexes 1 – 12 as referred to above.

Copy to

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