

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

AND

THE GREAT SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA

ON

THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of Singapore and the Great Socialist People's Libyan Arab Jamahiriya (each hereinafter referred to as a "Contracting Party" and together as "Contracting Parties");

DESIRING to create favourable conditions for greater economic co-operation between them and in particular for investments by investors of one Contracting Party in the territory of the other Contracting Party based on the principles of equality and mutual benefit;

RECOGNISING that the encouragement and reciprocal protection of such investments will be conducive to stimulating business initiative and increasing prosperity in both Contracting Parties;

HAVE AGREED AS FOLLOWS:

Article 1.

DEFINITIONS

For the purposes of this Agreement:

1. The term "investment" means every kind of asset permitted by each Contracting Party in accordance with its laws and regulations, including, though not exclusively, any:
 - a. movable and immovable property and other property rights such as mortgages, liens or pledges;
 - b. shares, stocks, debentures and similar interests in companies;
 - c. claims to money or to any performance under contract having an economic value which relates to investment;
 - d. intellectual property rights, including copyrights, patents, trademarks, industrial designs, know-how, trade-names, trade secrets and goodwill and other similar rights; and
 - e. business concessions conferred by law or under contract, including any concession to search for, cultivate, extract or exploit natural resources.

That any change whatsoever to the form where such assets are invested, reinvested, or returned, such investment to the concerned party will not change their nature as the assets intended specifically for investment, provided that such alteration is not in conflict with the legislation of the Contracting Party in the territory of which the investment is made.

2. The term "returns" means monetary returns yielded by an investment including any profits, interest, capital gains, dividends, royalties or fees.

3. The term "investor" means:

a. any "natural person" bearing the citizenship of either Contracting Party in accordance with its laws and regulations; and

b. any legal entity duly constituted or otherwise organized under applicable law, whether for profit or otherwise, and whether privately-owned or government-owned, including any corporation, trust, partnership, joint venture, sole partnership or association, and which is engaged in substantive business operations in the territory of one of the Contracting Parties.

4. The term "freely useable currency" means "freely useable currency" as determined by the International Monetary Fund under its Articles of Agreement and any amendments thereto.

Article 2. Applicability of this Agreement

1. Each Contracting Party shall admit the entry of investments made by investors of the other Contracting Party pursuant to its applicable laws and regulations.

2. The provisions of this agreement shall apply to all investments made by investors of either Contracting Party in the territory of the other Contracting Party, whether before or after the coming into force of this Agreement, but shall not apply to any dispute concerning an investment which arose or which was settled, before this Agreement enters into force.

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Article 3. Promotion and Protection of Investments

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1. Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make in its territory investments that are in line with its general economic policy.

2. Investments admitted under Article 2 shall be accorded fair and equitable treatment and protection in accordance with this Agreement.

Article 4. National Treatment and Most-favoured Nation Treatment

1. With regards to the management, maintenance, conduct, operation and sale or other disposition of investments, each Contracting Party shall in its territory accord to the investors of the other Contracting Party or their investments and returns treatment, which is not less favorable than that, which it accords, in like circumstances, to its own investors and their investments and returns or to investors of any third Country or their investments and returns, whichever is more favorable.

2. The provisions of this Agreement relating to the grant of treatment not less favourable than that accorded to the investors of any third State shall not be construed so as to oblige one Contracting Party to extend to investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from:

a. any existing or future customs union, free trade area, free trade arrangement, common market, monetary union or similar international agreement or other forms of regional cooperation to which either of the Contracting Parties is or may become a party; or the adoption of an agreement designed to lead to the formation or extension of such a union, area or arrangement;

b. any Investment Guarantee Agreement existing prior to the date of entry into force this Agreement; or

c. any arrangement with a third State or States in the same geographical region designed to promote regional cooperation in the economic,

Social, labour, industrial or monetary fields within the framework of specific projects.

3. The provisions of this Agreement shall not apply to matters of taxation in the territory of either Contracting Party.

Article 5. Expropriation

1. Neither Contracting Party shall take any measure of expropriation, nationalisation or other measures having effect equivalent to nationalisation or expropriation (hereinafter referred to as "expropriation") against the investment of investors of the other Contracting Party unless the measures are taken for any purpose authorised by law, on a non-discriminatory basis, in accordance with its laws and against compensation which shall be effectively realisable and shall be made without unreasonable delay. Such compensation, shall, subject to the laws of each Contracting Party, be the value immediately before the expropriation. The compensation shall be made in freely convertible currency and be freely transferable in accordance with Article 7 (Freedom of Transfers).

2. Any measure of expropriation or valuation may, at the request of the investors affected, be reviewed by a judicial or other independent authority of the Contracting Party taking the measures in the manner prescribed by its laws.

3. Where a Contracting Party expropriates the assets of a company which is incorporated or constituted under the laws in force in any part of its own territory, and in which investors of the other Contracting Party own shares, it shall ensure that the provisions of paragraph 1 of this Article are applied to the extent necessary to guarantee compensation as specified therein to such investors of the other Contracting Party who are owners of those shares. For avoidance of doubt, in case of dispute between the investor and the host Contracting Party on the matters above, the dispute should be settled in accordance with Article 10 (Investor-State Dispute Settlement) of this Agreement.

Article 6. Compensation for Losses

Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, a state of national emergency, revolt, insurrection or riot in the territory of the latter Contracting Party, shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, if any, no less favourable than that which the latter Contracting Party accords to investors of any third State or to its own investors, whichever is more favourable. Any resulting compensation shall be made in freely convertible currency and be freely transferable in accordance with Article 7 (Freedom of Transfers).

Article 7. Freedom of Transfers

1. Each Contracting Party shall guarantee to investors of the other Contracting Party the free transfer, on a non-discriminatory basis, of their capital and the returns from any investments. The transfers shall be made in a freely usable currency, without any restriction or undue delay. Such transfers shall include in particular, though not exclusively:

- a. the initial capital and any additional capital used to maintain or expand the investment;
- b. profits, capital gains, dividends, royalties, interest and other current income accruing from an investment;
- c. income of citizens of both Contracting Parties who are employed or permitted to work on the matters related to investment;
- d. the proceeds of the total or partial liquidation of an investment;
- e. repayments made under loans in connection with an investment including interest due;
- f. fees related to licence(s) according to Article 1, paragraphs (1)(c) and (1) (d);
- g. payments in respect of technical assistance, technical service and management fees;
- h. payments in connection with contracting projects; or
- i. any compensation owed to an investor by virtue of Article 5 (Expropriation) and of the Article 6 (Compensation for Losses) of this Agreement;

2. Notwithstanding paragraph 1 of this Article, a Party may delay or prevent a transfer through the equitable, non-discriminatory and good faith application of its laws relating to:

- a. bankruptcy, insolvency, or the protection of the rights of creditors;
- b. issuing, trading, or dealing in securities, futures contracts, options, or derivatives;
- c. criminal or penal offences;

- d. financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;
 - e. ensuring the satisfaction of judgments, orders or awards in adjudicatory proceedings; or
 - f. social security, public retirement or compulsory savings schemes.
3. Notwithstanding paragraphs 1 and 2 above, a Contracting Party may adopt or maintain temporary measures relating to cross-border capital transactions:
- a. in the event of serious balance of payments and external financial difficulties or threat thereof; or
 - b. in cases where, in exceptional circumstances, movements of capital cause or threaten to cause serious difficulties for macroeconomic management, in particular, monetary and exchange rate policies.
4. Measures referred in paragraph 3 of this Article:
- a. shall be consistent with the Articles of Agreement of International Monetary Fund;
 - b. shall not exceed those necessary to deal with the circumstances set out in paragraph 3 of this Article;
 - c. shall be temporary and eliminated as soon as conditions permit;
 - d. shall be promptly notified to the other Contracting Party; and
 - e. shall be imposed on an equitable, non discriminatory and in good faith basis.

Article 8. Exchange Rate

The transfers referred to in Articles 5 to 7 of this Agreement shall be effected at the prevailing market rate in freely usable currency on the date of transfer.

Article 9. Subrogation

1. In the event that either Contracting Party (or any agency, institution, statutory body or corporation designated by it) as a result of an indemnity it has given in respect of an investment or any part thereof makes payment to its own investors in respect of any of their claims under this Agreement, the other Contracting Party acknowledges that the former Contracting Party (or any agency, institution, statutory body or corporation designated by it) is entitled by virtue of subrogation to exercise the rights and assert the claims of its own investors. The subrogated rights or claims shall not be greater than the original rights or claims of the said investor.
2. Any payment made by one Contracting Party (or any agency, institution, statutory body or corporation designated by it) to its investors shall not affect the right of such investors to make their claims against the other Contracting Party in accordance with Article 10 (Investor-State Dispute Settlement).

Article 10. Investor-state Dispute Settlement

1. Any dispute between investors of one Contracting Party and the other Contracting Party in connection with an investment in the territory of the other Contracting Party shall, as far as possible, be settled amicably through negotiations between the parties to the dispute. The party intending to resolve such dispute through negotiations shall give written notice to the other party of its intention.
2. Where the dispute cannot be settled amicably as provided for under paragraph 1 within six (6) months from the date of request for negotiations, then unless the disputing investor and the disputing Contracting Party agree otherwise, the investor concerned may submit the dispute for settlement to:
 - a. a competent court of the Contracting Party in whose territory the investment has been made;
 - b. the International Centre for the Settlement of Investment Disputes ("the ICSID") established by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States ("the Convention"), opened for signature in Washington on 18 March 1965 provided that the Contracting Parties are both parties to the Convention';
 - c. an arbitration tribunal established ad hoc in accordance with the Arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL); or

d. any other arbitral institutions or in accordance with any other arbitral rules, provided the parties to the dispute agree to do so.

3. For this purpose, each Contracting Party hereby irrevocably consents to the investor's decision to submit a dispute to arbitration. Such consent shall be understood to satisfy the requirements of Article 25 of the Convention.

4. In taking its decision, the arbitration tribunal shall take into account all relevant factors including, the provisions of this Agreement, the applicable laws and regulations of the Contracting Party involved in the dispute, the rules of conflict of laws which the arbitration tribunal considers applicable, the terms of any specific agreement concluded in the relation to the particular investment involved and relevant principles of international law.

5. The decisions of the arbitration shall be definitive and binding for the parties of disputes, and the parties shall recognize and execute them.

Article 11. Disputes between the Contracting Parties

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, as far as possible, be settled through negotiation.

2. If any dispute cannot be thus settled, it shall upon the request of either Contracting Party be submitted to arbitration. The arbitral tribunal (hereinafter called

"the tribunal") shall consist of three arbitrators, one appointed by each Contracting Party and the third, who shall be Chairman of the tribunal, appointed by agreement of the Contracting Parties.

3. Within two months of receipt of the request for arbitration, each Contracting Party shall appoint one arbitrator, and within two months of such appointment of the two arbitrators, the Contracting Parties shall appoint the third arbitrator.

4. If the tribunal shall not have been constituted within four months of receipt of the request for arbitration, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to appoint the arbitrator or arbitrators not yet appointed. If the President is a national of either Contracting Party or if he is unable to do so, the Vice-President may be invited to do so. If the Vice-President is a national of either Contracting Party or if he is unable to do so, the Member of the International Court of Justice next in seniority who is not a national of either Contracting Party may be invited to make the necessary appointments, and so on.

5. The tribunal shall reach its decision by a majority of votes.

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6. The tribunal's decision shall be final and the Contracting Parties shall abide by and comply with the terms of its award.

7. Each Contracting Party shall bear the costs of its appointed member of the tribunal and of its representation in the arbitration proceedings and half the costs of the Chairman and the remaining costs. The tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two Parties, and this award shall be binding on both Parties.

8. Apart from the above the tribunal shall establish its own rules of procedure.

Article 12. Other Obligations

If the legislation of either Contracting Party or international obligations existing at present or established hereafter between the Contracting Parties in addition to this Agreement, result in a position entitling investments by investors of the other Contracting Party to treatment more favourable than is provided for by this Agreement, such position shall not be affected by this Agreement. Each Contracting Party shall observe any commitment in accordance with its laws additional to those specified in this Agreement, entered into by the Contracting Party with investors of the other Contracting Party as regards their investments.

Article 13. Entry Into Force, Duration and Termination

1. Each Contracting Party shall notify the other Contracting Party of the fulfillment of its internal legal procedures required for the bringing into force of this Agreement. This Agreement shall enter into force on the thirtieth (30 th) day from the date of notification of the later Contracting Party.

2. This Agreement shall remain in force for a period of ten (10) years and shall continue in force thereafter unless, one (1) year before the expiry of the initial period of ten (10) years, either Contracting Party notifies in writing the other Contracting Party of its intention to terminate this Agreement. The notice of termination shall become effective one (1) year after it has been received by the other Contracting Party.

3. In respect of investments made prior to the date when the notice of termination of this Agreement becomes effective, the provisions of Articles 1 to 12 shall remain in force for a further period of ten (10) years from that date.

IN WITNESS WHEREOF, the undersigned, being duly authorized respectively by the Government of the Republic of Singapore and the Great Socialist People's Libyan Arab Jamahiriya, have signed this Agreement.

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Done in

On

, in two originals in the English

And Arabic languages, both texts being equally authentic. In case of any dispute, the English text shall prevail.

For the Government of the Republic of Singapore

For the Great Socialist People's Libyan Arab Jamahiriya

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IN WITNESS WHEREOF, the undersigned, being duly authorized respectively by the Government of the Republic of Singapore and the Great Socialist People's Libyan Arab Jamahiriya, have signed this Agreement.

Done in Tripoli, Libya on 8 April 2009, in two originals in the English and Arabic languages, both texts being equally authentic. In case of any dispute, the English text shall prevail.

For the Government of the Republic of Singapore

For the Great Socialist People's Libyan Arab Jamahiriya

Mr S Iswaran Senior Minister of State Ministry of Trade and Industry And Education

Committee for Industry, Economy and Trade