

# **AGREEMENT BETWEEN THE GOVERNMENT OF UNITED ARAB EMIRATES AND THE GOVERNMENT OF THE REPUBLIC OF ARMENIA FOR THE ENCOURAGEMENT AND RECIPROCAL PROTECTION OF INVESTMENTS**

Government of United Arab Emirates and the Government of Republic of Armenia, (hereinafter referred to as the "Contracting States");

Desiring to create favourable conditions for the development of economic cooperation between them and in particular for investments by investors of one contracting State in the territory of the other Contracting State;

Recognizing that the encouragement and reciprocal protection of such investments will be conducive to the stimulation of business initiative and to the increase of prosperity in both Contracting States;

Have agreed as follows;

## **Article 1. Definitions**

For the purpose of this Agreement:

1. the term 'investment' shall mean every kind of asset or right in the territory of one Contracting State that is owned or controlled directly or indirectly by an investor of the other Contracting State, and includes asset or right consisting or taking the form of:

(a) a company, shares, stocks, and other forms of equity participation, bonds, debentures, and other forms of debt interests in a company, and other debts and loans, securities issued by any investor of a Contracting State;

(b) claims to money and claims to any other assets or performance pursuant to contract having an economic value;

(c) intellectual property rights, including, but not limited to, copyrights, trademarks, patents, industrial designs and patterns and technical processes, know-how, trade secrets, trade names and goodwill;

(d) any right conferred by law, contract or by virtue of any licenses or permits granted pursuant to law, including rights to prospect, explore, extract, or utilize natural resources, and rights to undertake other economic or commercial activities or to render services; according to the laws and regulations of the contracting states in whose territory the investment made.

(e) any other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges.

2. The term "investment" shall also apply to "returns" retained for the purpose of re-investment and to proceeds from "liquidation". Any change in the form in which assets or rights are invested or reinvested shall not affect their character as investments.

3. The term "investor" with respect to a Contracting State shall mean:

(a) a natural person holding the nationality or citizenship of that Contracting State in accordance with its applicable laws;

(b) the Government of that Contracting State, local Government, and local Authority

(c) any legal person constituted or incorporated under the laws and regulations of that Contracting State, such as institutions, development funds, agencies, foundations and other statutory establishments and authorities, and companies.  
Agreement between the Government of United Arab Emirates and the Government of the Republic of Armenia the for the Encouragement and Reciprocal Protection of Investments

4. The term "company" shall mean any legal entity, whether or not organized for pecuniary gain, and whether privately or

governmentally owned or controlled, which is constituted under the laws of a Contracting State or is owned or effectively controlled by investors of a Contracting State, and includes a corporation, trust, partnership, sole proprietorship, branch, joint venture, association or other similar organization.

5. The term "returns" shall mean amounts yielded by an investment, irrespective of the form in which they are paid, and in particular, though not exclusively, include profits, interest, capital gains, dividends, royalties, and management, technical assistance or other payments or fees, and payments in kind, regardless of its type.

6. The term "liquidation" shall mean any disposal effected for the purpose of completely or partly giving up an investment.

7. The term "territory" shall mean the territory of a Contracting State including any area beyond the territorial sea which in accordance with international law has been or may hereafter be designated under the laws of a Contracting State, as an area over which a Contracting State may exercise sovereign rights or jurisdiction.

8. The term "freely convertible currency" shall mean any currency that is determined by the International Monetary Fund, from time to time, as freely usable currency in accordance with the Articles of Agreement of the International Monetary Fund and any amendment thereto.

9. The term "without delay" shall mean such period as is normally required for the completion of necessary formalities for the transfer of payments. The said period shall commence on the day on which the request for transfer has been submitted and shall not.

## **Article 2. Admittance and Encouragement of Investments**

1. Each Contracting State shall, in its territory and in accordance with its applicable laws and regulations admit and encourage investments made by investors of the other Contracting State.

2. Each Contracting State shall in respect of investments admitted in its territory, grant such investments all necessary permits, consents, approvals, licenses and authorizations to such an extent and on such terms and conditions as may be determined by its laws and regulations.

3. The Contracting States may consult with each other in any manner they may deem appropriate to encourage and facilitate investment opportunities within their respective territories.

4. Each Contracting State shall, subject to its laws and regulations relating to the entry, stay and work of natural persons, examine in good faith and give due consideration, regardless of nationality or citizenship to requests of key personnel including top managerial and technical persons who are employed for the purposes of investments in its territory, to enter, remain temporary and work in its territory. Immediate family members of such key personnel shall also be granted similar treatment with regard to the entry and temporary stay in the host Contracting State.

5. Whenever goods or persons connected with an investment are to be transported, each Contracting State shall to the extent permissible under its relevant laws and regulations permit the operation of such transport by enterprises of the other Contracting State.

## **Article 3. Protection of Investments**

1. Investments made by investors of either Contracting State shall at all times enjoy a fair and equitable treatment and full protection and security in the territory of the other Contracting State in a manner consistent with recognized principles of the international laws and the provisions of this Agreement. Neither Contracting State shall in any way impair by arbitrary or discriminatory measures the use, management, conduct, operation, expansion or sale or other disposition of make available investments.

2. Each Contracting State shall make under its laws, regulations, procedures, directives, guidelines and administrative rulings and judicial decisions of public application on the request of investors.

3. Each Contracting State shall provide effective means of asserting claims and enforcing rights with respect to investments. Each Contracting State shall ensure to investors of the other Contracting State, the right of access to its courts, administrative tribunals and agencies, and all other bodies exercising adjudicatory authority, and the right to mandate persons of their choice, who qualify under applicable laws and regulations for the purpose of the assertion of claims and the enforcement of rights with respect to their investments.

4. Neither Contracting State may impose as a condition for the acquisition, expansion, use, management, conduct or operation of investments by investors of the other Contracting State mandatory measures, which may require or restrict the

purchase of materials, energy, fuel or means of production, transport or operation of any kind or restrict the marketing of products inside or outside its territory, or any other measures having the effect of discrimination against investments by investors of the other Contracting State in favour of investments by its own investors or by investors of third states. Furthermore, investments shall not be subjected in the host Contracting State to performance requirements which may be detrimental to their viability or adversely affect their use, management, conduct, operation, expansion, sale or other disposition.

5. Investments made by investors of either Contracting State shall not be subjected in the host Contracting State to sequestration, confiscation or any other similar measures except under the due process of the law and in conformity with applicable principles of international law and other relevant provisions of this agreement.

6. Each Contracting State shall observe any obligation or undertaking it may have entered into with regard to investments in its territory made by investors of the other Contracting State.

#### **Article 4. Treatment of Investments**

1. With respect to the use, management, conduct, operation, expansion and sale or other disposition of investments made in its territory by investors of the other Contracting State, each Contracting State shall accord treatment no less favourable than that it accords, in like situations, to investments of its own investors or investors of any third state, whichever is more favorable to those investments.

2. However, the provisions of this Article shall not be construed so as to oblige one Contracting State to extend to the investors of the other Contracting State the benefit of any treatment, preference or privilege resulting from: (a) any customs union, economic union, free trade area, monetary union, or other form of regional economic arrangement or other similar international agreement, to which either of the Contracting States in or may become a party; (b) any international, regional, regional or bilateral agreement or other similar arrangement or any domestic legislation relating wholly or mainly to taxation.

#### **Article 5. Compensation for Losses**

1. Except where Article 6 applies, when investments made by an investor of either Contracting State suffers a loss owing to war or other armed conflict, a state of national emergency, revolt, civil disturbances, insurrection, riot or other similar events in the territory of the other Contracting State, he shall be accorded by the latter Contracting State, treatment, as regards restitution, indemnification, compensation or other settlement, not less favourable than that the latter Contracting State accords to its own investor or investor of any third state, whichever is more favourable to the investor.

2. Without prejudice to paragraph 1 investor of this Article of one Contracting State who in any of the events referred to in that paragraph suffers a loss in the territory of the other Contracting State resulting from:

(a) requisitioning of its investments or part thereof by its forces or authorities;

(b) destruction of its investments or part thereof by its forces or authorities which was not caused in combat action or was not required by the necessity of the situation, shall be accorded restitution or compensation which in either case shall be prompt, adequate and effective of the host Contracting State, in accordance with due process of law in the host State legislation.

#### **Article 6. Expropriation and Alienation**

1. (a) Investments made by investors of one Contracting State in the territory of the other Contracting State shall not be nationalized, expropriated or alienated, dispossessed or subjected to direct or indirect measures having effect equivalent to nationalization, expropriation or dispossession (hereinafter collectively referred to as "expropriation and Alienation") by the other Contracting State except for a public purpose related to the internal needs of that Contracting State and against prompt, adequate and effective compensation and on condition that such measures are taken on a non-discriminatory basis and in accordance with due process of law in the host State legislation.

(b) Such compensation shall be equal to the actual value of the expropriated investment and shall be determined and computed in accordance with internationally recognized principles of valuation on the basis of the fair market value of the expropriated investment at the time immediately before the expropriatory action was taken or the impending expropriation became publicly known, whichever is the earlier ( hereinafter referred to as the "valuation date" ). Such compensation shall be calculated in a freely convertible currency to be chosen by the investor, on the basis of the prevailing market rate of exchange for that currency on the valuation date and shall include interest at a commercial rate established on a market

basis, however, in no event less than the prevailing LIBOR- rate of interest or equivalent, from the date of expropriation until the date of payment.

(c) Where the above-mentioned fair market value cannot be readily ascertained, the compensation shall be determined on equitable principles taking into account all relevant factors and circumstances, such as the capital invested, the nature and duration of the investment, replacement value, appreciation, current returns, discounted cash flow value, book value and goodwill. The amount of compensation finally determined shall be promptly paid to the investor.

2. In light of the principles set out in paragraph 1 and without prejudice to the rights of the investor under Article 9 of this Agreement, the investor affected shall have the right to appeal against all this actions and measures mentioned above and also shall have the right to prompt review by a judicial or other competent and independent authority of the Contracting State which made the expropriation, of its case, including the valuation of its investment and the payment of compensation therefore.

3. For further certainty, expropriation and alienation shall include situations where a Contracting State expropriates the assets of a company or enterprise that is incorporated or established under the laws in force in its own territory in which an investor of the other Contracting State has an investment, including through the ownership of shares, stocks, debentures or other rights or interests.

4. For the purposes of this Agreement, the term "expropriation and alienation" shall also include interventions or regulatory measures by a Contracting State that have a de facto expropriatory effect, in that their effect results in depriving the investor in fact from his ownership, control of substantial benefits over his investment or which may result in loss or damage to the economic value of the investment, such as the freezing or blocking of the investment, levying of arbitrary or excessive taxes on the investment, compulsory sale of all or part of the investment, or other comparable measures.

5. A claim to compensation in accordance with the principles and provisions of this Article shall also exist when, as result of an action by a Contracting State in any company in which investment is made by investors of the other Contracting State, the investment is impaired in substance.

## **Article 7. Transfer of Payments Related to Investments**

1. Each Contracting State shall guarantee to investors of the other Contracting State the free transfer of payments after fulfillment of tax obligation in connection with an investment into and out of its territory, including the transfer of:

- (a) the initial capital and any additional capital for the maintenance, management and development of the investment;
- (b) returns;
- (c) payments under a contract, including amortisation of principal and accrued interest payments made pursuant to a loan agreement;
- (d) royalties and fees for the rights referred to in Article 1 paragraph 1(d);
- (e) proceeds from the sale or liquidation of the whole or any part of the investment;
- (f) earnings and other remuneration of personnel engaged from abroad in connection with the investment;
- (g) payments of compensation pursuant to Articles 5 and 6;
- (h) payments referred to in Article 8;
- (i) payments arising out of the settlement of disputes.

2. Transfers shall be made at the spot market rate of exchange prevailing in the host Contracting State on the date of transfer for the currency to be transferred. In the absence of a market for foreign exchange, the rate to be applied will be the most recent rate applied to inward investments or the exchange rate determined in accordance with the regulations of the International Monetary Fund or the exchange rate for conversion of currencies into Special Drawing Rights or United States Dollars, or the EURO whichever is the most favorable to the investor.

## **Article 8. Subrogation**

1. If a Contracting State or its designated agency (the "Indemnifying Party"), makes a payment under an indemnity or guarantee it has assumed in respect of an investment in the territory of the other Contracting State (the "Host State"), the Host State shall recognize:

(a) the assignment to the Indemnifying Party by law or by legal transaction of all the rights and claims resulting from such an investment;

(b) the right of the Indemnifying Party to exercise all such rights and enforce such claims and to assume all obligations related to the investment by virtue of subrogation.

2. The Indemnifying Party shall be entitled in all circumstances to:

(a) the same treatment in respect of the rights and claims acquired and the obligations assumed by it by virtue of the assignment referred to in paragraph 1 above;

(b) any payments received in pursuance of those rights and claims, as the original investor was entitled to receive by virtue of this Agreement in respect of the investment concerned.

## **Article 9. Settlement of Investment Disputes between a Contracting Party and Investor of the other Contracting Party**

1. Any investment dispute between and investor of one Contracting Party and the other Contracting Party shall be notified in writing by the first party to take action. The notification shall be accompanied by a sufficiently detailed memorandum.

2. In the absence of an amicable settlement by negotiations between the parties to the dispute within 3 months from the date of notification, the dispute shall be submitted, at the option of the investor, either to the competent jurisdiction of the State where the investment was made, or to international arbitration. To this end, each Contracting Party agrees in advance and irrevocably to the submission of disputes as referred in paragraph 1 of this Article to international arbitration in accordance with the provisions of this Article. Such consent implies that both parties waive right to demand that all domestic administrative or judicial remedies be exhausted prior to such submission.

3. In case of international arbitration, the investment dispute shall be submitted for settlement by arbitration to one of the hereinafter mentioned organizations, at the option of the investor:

- The International Center for the Settlement of Investment Disputes ( I.C.S.I.D ) under the convention on the Settlement of Investment Disputes between States and Nationals of other States or under the Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the Center;
- An ad hoc arbitral tribunal established according to the Arbitration Rules of the United Nations Commission on International Trade Law

4. At any stage of the arbitration proceedings or the execution of the arbitral award, none of the Contracting Parties involved in a dispute shall be entitled to raise as an objection the fact that the investor who is the opposing party in the dispute has received compensation totally or partly covering his losses pursuant to an insurance policy or to the guarantee provided for in Article 8 of this Agreement.

5. The arbitral tribunal shall decide on the basis of the national law, including the rules relating to conflicts of law, of Contracting Party involved in the dispute in whose territory the Investment has been made, as well as on the basis of the provisions of this Agreement, of the terms of the specific Agreement which may have been entered into regarding the Investment, and of the principles of International Law.

6. The arbitral award shall be final and binding on the parties to the dispute. Each Contracting Party shall execute the awards in accordance with its national legislation.

## **Article 10. Disputes between the Contracting Parties Relating to the Interpretation or Application of this Agreement**

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall be settled as far as possible through negotiations or consultation.

2. In the absence of a settlement through negotiations or consultations within three months, the dispute shall be submitted to a Tribunal established in accordance with this Article.

3. The Tribunal shall be constituted for each individual case in the following way. Within 60 days after receipt of a request for arbitration each Contracting Party shall appoint one member of the Tribunal. These two arbitrators shall select by mutual Agreement a citizen of a third State who, on approval of the two Contracting Parties, shall be appointed as a Chairman of the Tribunal ( hereinafter referred to as the " Chairman "). The Chairman shall be appointed within 60 days from the date of

appointment of the latter of other two members of the Tribunal.

4. If the necessary appointments have not been made within the periods specified in paragraph 3 of this Article, either Contracting Party may request the President of the International Court of Justice to make necessary appointment (s). If the President of the International Court of Justice is a citizen of either Contracting Party or of a State with which one of the Contracting Parties has no diplomatic relations or if, for any other reason, he can not exercise the said function, the Vice-President of the International Court of Justice shall be requested to make appointment(s). If the Vice-President of the International Court of Justice is also prevented from exercising the said function the member of the International Court of Justice next in seniority who is not a citizen of either Contracting Party shall be requested to make appointment (s).

5. The Tribunal shall determine its own rules of procedure. Its decisions shall be taken by the majority of votes. The Tribunal shall decide disputes in accordance with this Agreement interpreted and applied in accordance with the applicable rules of international Law. Decisions of the Tribunal shall be final and binding on the Contracting Parties.

6. Each Contracting Party shall bear the cost of its representation in the arbitral proceedings. The costs of the Tribunal shall be paid equally by the Contracting Parties. The Tribunal, however, may decide that a higher proportion of these costs shall be borne by one of the Contracting Parties.

## **Article 11. Application of other Rules and Specific Agreement**

1. If provisions of national legislation or international agreements existing or to be signed by both Contracting Parties in the future contain general or specific rule entitling the investors of either Contracting Party to treatment more favorable than which is provided for by this Agreement, such rule shall to the extent it is more favorable prevail over this Agreement.

2. Investments made pursuant to a specific agreement between one Contracting Party and investor(s) of the other Contracting Party shall be governed by the provisions of this Agreement and by that specific agreement.

## **Article 12. Applicability of the this Agreement**

1. This Agreement shall apply to investments made in the territory of either Contracting Party in accordance with their legislation prior to entry into force of this Agreement, as well as to investments made thereafter.

2. This Agreement shall not apply to any dispute that arose or to claim that has been settled, prior to its entry into force.

## **Article 13. Amendments and Changes**

Amendments and changes to this Agreement can be made by mutual agreement of the Contracting Parties. Amendments and changes shall be made in the form of additional protocols and shall constitute an inseparable part of this Agreement. Amendments and changes shall enter into force in the manner prescribed by Article 14 of this Agreement.

## **Article 14. Entry Into Force, Duration, and Termination of this Agreement**

1. This Agreement shall enter into force one month after the date of exchange by the Contracting Parties of ratification instruments. The Agreement shall remain in force for a period of fifteen years.

2. Unless a notice of termination is given by either Contracting Party at least six months before the date of expiry of its validity, this Agreement shall be extended tacitly each time for a further period of fifteen years, whereby each Contracting Party reserves the right to terminate the Agreement by notification through diplomatic channels given at least six months before the date of expiry of the current period of validity.

3. In respect of Investments made prior to termination of this Agreement, the provisions of Article 1 through 14 shall continue to be effective for a period of fifteen years from the date of termination.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement. Done at ..... on ..... corresponding to .....1422H, in two original copies, each in the English, Arabic and Armenian language, all texts being equally authentic. In case of divergence of interpretation the text in English shall prevail.

For the Government of the United Arab Emirates

Dr. Mohammed Khalfan Bin Khirbash

Minister of State for Finance and Industry

For the Government of the Republic of Armenia

Karen Chshmaritian

Minister of Trade and Economic Development

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For the Government Of United Arab Emirates

Hamden Bin Rashid Al-Maktoum Deputy Ruler of Dubai

Minister of Finance & Industry

For the Government Of the Republic of Armenia

Karen Chshmaritian

Minister of Trade and Economic Development