

AGREEMENT BETWEEN THE GOVERNMENT OF ROMANIA AND THE GOVERNMENT OF THE STATE OF QATAR ON THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of Romania and the Government of the State of Qatar

Herein referred to as the "Contracting Parties",

Desiring to intensify economic cooperation to the mutual benefit of both States,

Intending to create and maintain favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party,

Recognizing the need to promote and protect foreign investments with the aim to foster the economic prosperity of both States,

Have agreed as follows:

Article 1. Definitions

For the purpose of this Agreement and unless otherwise stated in this Agreement:

(1) The term "investor" refers with regard to either Contracting Party to:

a) natural persons who, according to the law of that Contracting Party, are considered to be its citizens;

b) - in respect of Romania: legal entities, including companies, corporations, business associations and other organizations, which are constituted or otherwise duly organized under the law of Romania and have their seat, together with real economic activities in the territory of Romania;

- In respect of the State of Qatar: the Government and legal entities, including companies, corporations, business associations and other organizations, which are constituted or otherwise duly organized under the law of the State of Qatar and have their seat together with real economic activities in the territory of the State of Qatar;

c) legal entities controlled directly or indirectly by natural persons or legal entities as provided for in points a) and b) of this paragraph;

(2) The term "investments" shall mean every kind of assets invested by investors of one Contracting Party in the territory of the other Contracting Party, in accordance with the laws and regulations of the latter, and include particularly, but not exclusively:

a) movable and immovable property as well as any other rights in rem, such as servitudes, mortgages, liens, pledges;

b) shares, parts or any other kinds of participation in companies;

c) claims to money or to any rights to any performance having an economic value;

d) intellectual property rights, such as copyrights, patents, industrial designs or models, trade or service marks, trade names, know-how and goodwill, as well as other similar rights recognized by the laws of the Contracting Parties;

e) concessions under public law, including concessions to search for, extraction or exploitation of natural resources as well as all other rights given by law, by contract or by decision of the authority in accordance with the law.

Any alteration of the form in which assets are invested or reinvested shall not affect their character as investment.

(3) The term "returns" means the amounts yielded by an investment and in particular, though not exclusively, includes profits, dividends, interests, capital gains, royalties, management and technical assistance or other fees, irrespective of the form in which the return is paid.

(4) The term "territory" means;

- In respect of Romania; the territory of Romania, including the territorial sea and the economic exclusive zone over which Romania exercises, in accordance with internal and international law, sovereignty, sovereign rights and jurisdiction;

- In respect of the State of Qatar: the territory of Qatar, including the territorial sea as well as the continental shelf, over which the State of Qatar exercises, in accordance with international law, sovereign rights and jurisdiction;

Article 2. Promotion, Admission

(1) Each Contracting Party shall in its territory promote as far as possible investments made by investors of the other Contracting Party and admit such investments in accordance with its laws and regulations.

(2) When a Contracting Party shall have admitted an investment in its territory, it shall, in accordance with its law's and regulations, grant the necessary permits in connection with such an investment, including authorizations for engaging top managerial and technical personnel of their choice, regardless of nationality.

Article 3. Protection, Treatment

(1) Each Contracting Party shall protect within its territory investments made in accordance with its laws and regulations by investors of the other Contracting Party and shall not impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment, extension, sale or liquidation of such investments. In particular, each Contracting Party or its competent authorities shall issue the necessary authorizations mentioned in Article 2, paragraph (2), of this Agreement.

(2) Each Contracting Party shall ensure fair and equitable treatment within its territory to investments of tire investors of the other Contracting Party. This treatment shall not be less favourable than that granted by each Contracting Party to investments made within its territory by its own investors, or than that granted by each Contracting Party to the investments made within its territory by investors of any third state, if this latter treatment is more favourable.

(3) The most favoured nation treatment shall not be construed so as to oblige a Contracting Party to extend to the investors and investments of the other Contracting Party the advantages resulting from any existing or future customs or economic union, a free trade area or regional economic organization, to which either of the Contracting Parties is or becomes a member. Nor shall such treatment relate to any advantage which either Contracting Party accords to investors of a third state by virtue of a double taxation agreement or other agreements on a reciprocal basis regarding tax matters.

Article 4. Free Transfer

Each Contracting Party in whose territory investments have been made by investors of the other Contracting Party shall grant those investors, upon paying all their fiscal and other similar obligations, the free transfer of the payments relating to these investments at the rate of exchange applicable on the date of transfer, particularly of;

a) returns according to Article 1, paragraph (3) of this Agreement;

b) amounts relating to loans incurred, or other contractual obligations undertaken, for the investment; and

c) proceeds accruing from the total or partial sale, alienation or liquidation of an investment.

Article 5. Dispossession, Compensation

(1) Neither of the Contracting Parties shall truce, either directly or indirectly, measures of expropriation, nationalization or any other measures having the same nature or the same effect against investments of investors of the other Contracting Party, unless the measures are taken in the public interest as established by law, on a non-discriminatory basis, and under due process of law, and provided that provisions be made for effective and adequate compensation. The amount of compensation, interest included shall be settled in a convertible currency and paid without delay to the investor entitled thereto. Resulting payments shall be freely and promptly transferable.

(2) The investors of one Contracting Party whose investments have suffered losses due to a war or any other armed conflict, revolution, state of emergency or rebellion, which took place in the territory of the other Contracting Party shall benefit,

from the part of this latter, of a treatment in accordance with Article 3, paragraph (2) of this Agreement. They shall, in all events, be entitled to compensation.

Article 6. Pre-agreement Investments

The present Agreement shall also apply to investments in the territory of a Contracting Party made in accordance with its laws and regulations by investors of the other Contracting Party prior to the entry into force of this Agreement. However, the Agreement shall not apply to disputes that have arisen before its entry into force.

Article 7. Other Obligations

(1) If the legislation of either Contracting Party entitles the investments of the investors of the other Contracting Party to treatment more favourable than is provided for by this Agreement, such legislation shall, to the extent that it is more favourable, prevail over this Agreement.

(2) Each Contracting Party shall observe any other obligation it has assumed with regard to investments made in its territory by investors of the other Contracting Party.

Article 8. Principle of Subrogation

If either Contracting Party or its designated agency makes a payment to one of its investors under any financial guarantee against non-commercial risks it has granted in regard of an investment in the territory of the other Contracting Party, the latter shall recognize, by virtue of the principle of subrogation, the assignment of any right or title of that investor to the first Contracting Party or its designated agency. The other Contracting Party shall be entitled to set off taxes and other public charges due and payable by the investor.

Article 9. Settlement of Disputes between an Investor of One Contracting Party and the other Contracting Party

(1) Any legal dispute arising directly out of an investment between an investor of one Contracting Party and the other Contracting Party shall be settled amicably between the two parties concerned.

(2) If this dispute has not been settled within a period of six months from the date at which it was raised in writing by one or other party to the dispute, it shall be submitted, at the request and choice of either party, for settlement to:

- a) The competent court of the Contracting Party in the territory of which the investment has been made; or
- b) The International Centre for Settlement of Investment Disputes (ICSID) provided for by the Convention on the Settlement of Investment Disputes between States and Nationals of other States, done at Washington on March 18, 1965, if this convention is applicable; or
- c) an ad hoc arbitral tribunal.

Either party to the investment dispute who chooses one of the above mentioned ways of the settlement of dispute, cannot choose the two other ways.

(3) The ad hoc arbitral tribunal specified under paragraph (2/c) shall be established as follows:

- a) Each party to the dispute shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint by mutual agreement a third arbitrator, who must be a citizen of a third country, and who shall be designated as Chairman of the Tribunal by the two parties. All the arbitrators must be appointed within two months from the date of notification by one party to the other party of its intention to submit the dispute to arbitration.
- b) If the periods specified in the section a) hereabove have not been respected, either party, in the absence of any other agreement, shall invite the Secretary General of the Permanent Court of Arbitration at the Hague to make the necessary appointments.
- c) The tribunal shall reach its decisions by a majority of votes. These decisions shall be final and legally binding upon the parties and shall be enforced in accordance with the domestic law. They shall be taken in conformity with the provisions of this Agreement, the laws of the Contracting Party to the dispute and the principles of International Law.

The Tribunal shall set its rules of procedure in conformity with the Arbitration Rules of the United Nations Commission for

International Trade Law (UNCITRAL).

It shall interpret its award at the request of either party. Unless otherwise agreed by the parties the venue of arbitration is the seat of the Permanent Court of Arbitration at the Hague (Netherlands).

(4) The Contracting Party which is a party to the dispute shall, at no time whatsoever during the procedures involving investment disputes, assert as a defence its immunity or the fact that the investor has received compensation under an insurance contract covering the whole or part of the incurred damage or loss.

Article 10. Settlement of Disputes between the Contracting Parties

(1) Disputes between the Contracting Parties relating to the interpretation, application or termination of this Agreement shall be settled, if possible, by diplomatic channels.

(2) If the dispute has not been settled within a period of six months from the date on which the matter was raised by either Contracting Party, it may be submitted at the request of either Contracting Party to the Arbitral Tribunal.

(3) The said Tribunal shall be created as follows for each specific case: each Contracting Party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint by mutual agreement a citizen of a third country, who shall be designated as Chairman of the Tribunal. All the arbitrators must be appointed within two months from the date of notification by one Contracting Party to the other Contracting Party of its intention to submit the dispute to arbitration.

(4) If the period specified in paragraph (3) above has not been respected, either Contracting Party in the absence of any other agreement shall invite the President of the International Court of Justice to make the necessary appointments. If the President is a citizen of either Contracting Party, or if he is otherwise prevented from discharging the said function, the Vice-President, who is not a citizen of either Contracting Party, shall make the necessary appointments. If the Vice-President is a citizen of either Contracting Party or if he is also prevented from discharging the said function, the member of the Court next in seniority who is not a citizen of either Contracting Party should make the necessary appointments.

(5) The Tribunal shall reach its decisions by a majority of votes. These decisions shall be final and legally binding upon the Contracting Parties. They shall be taken in conformity with the provisions of this Agreement, and the related principles of International Law.

(6) The Tribunal shall set its own rules of procedure. It shall interpret its award at the request of either Contracting Party. The venue of arbitration is the seat of the Permanent Court of Arbitration at the Hague (Netherlands).

(7) Unless otherwise decided by the Tribunal, each Contracting Party shall bear the cost of the arbitrator it has appointed and of its representation in the arbitral proceedings. The cost of the Chairman and the remaining costs shall be borne in equal parts by the Contracting Parties.

Article 11. Final Provisions

(1) This Agreement shall enter into force thirty days after the date on which the Contracting Parties shall have notified each other that their legal requirements for the entry into force of this Agreement have been fulfilled. It shall remain in force for an initial period of ten years. After the expiry of the period of ten years this Agreement may be terminated at any time by either Contracting Party giving six months notice.

(2) In case of official notice of termination of the present Agreement, the provisions of the Articles 1 to 10 shall continue to be effective for a further period of ten years for investments made before official notice was given.

IN WITNESS WHEREOF the Undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done at Bucharest, on 6th of June, 1996, in two originals, in Romanian, Arabic and English languages, each text being equally authentic. In case of difference of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF ROMANIA

Florin Georgescu

Minister of State Minister of Finance

FOR THE GOVERNMENT OF THE STATE OF QATAR

Mohammed Bin Khalifa Al-Thani

Minister of Finance, Economy and Commerce