

AGREEMENT BETWEEN THE BELGIUM-LUXEMBOURG ECONOMIC UNION, on the one hand, AND THE SULTANATE OF OMAN, on the other hand, ON THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

THE KINGDOM OF BELGIUM,

THE WALLOON REGION,

THE FLEMISH REGION,

and

THE BRUSSELS-CAPITAL REGION,

as well as

THE GRAND-DUCHY OF LUXEMBOURG, on the one hand,

and

THE SULTANATE OF OMAN, on the other hand,

(hereinafter referred to as "the Contracting Parties"), and each referred to as the Contracting Party,

DESIRING to strengthen their economic cooperation by creating favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party,

RECOGNISING that the promotion and reciprocal protection of investments would be conducive to the stimulation of business initiatives and transfer of capital and technology between the Contracting Parties in the interest of their economic development;

HAVE AGREED as follows:

Article 1. Definitions

For the purpose of this Agreement, unless the text of this Agreement otherwise requires, the following terms shall have the meaning assigned before each:

1. The term "investors" shall mean:

a) the "nationals", i.e. any natural person who, according to the legislation of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg or of the Sultanate of Oman, is considered as a citizen of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg or of the Sultanate of Oman respectively;

b) the "companies", i.e. any legal person constituted in accordance with the legislation of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg or of the Sultanate of Oman and having its registered office in the territory of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg or of the Sultanate of Oman respectively.

2. The term "investments" shall mean any kind of assets and any direct or indirect contribution in cash, in kind or in services, invested or reinvested in any sector of economic activity in accordance with the laws and regulations of the Contracting Party which accepts investment in its territory, and include in particular though not exclusively:

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

similar rights;

b) shares, corporate rights and any other kind of shareholding, including minority or indirect ones, in companies constituted in the territory of one Contracting Party;

c) titles to money and claims to a legal performance under contract having an economic value and any other titles to money;

d) intellectual property rights, in particular copyrights, industrial property rights, patents, industrial designs, models, trademarks, trade names, trade secrets, technical processes, know-how and goodwill;

e) concessions conferred by law or under contract, including concessions to search for, cultivate, develop, extract or exploit natural resources.

Any alteration of the form in which assets are invested or reinvested shall not affect their qualification as investments provided that such alteration is not in conflict with the provisions of this Agreement and the legislation of the Contracting Party on the territory of which the investment is made.

3. the term "returns" shall mean: all amounts yielded by an investment or reinvestment, in particular, though not exclusively includes profits, interests, capital gains, dividends, royalties and fees.

4. **a)** The term "territory" with respect to the Sultanate of Oman means: the land, territorial waters, maritime areas and air space under its sovereignty, including the exclusive economic zone and the continental shelf where the Sultanate of Oman exercises sovereign rights and jurisdiction in accordance with its domestic laws and the provisions of International Law.

b) The term "territory" with respect to the Kingdom of Belgium, of the Grand-Duchy of Luxembourg means: to the territory of the Kingdom of Belgium, to the territory of the Grand-Duchy of Luxembourg as well as to their maritime areas, i.e. the marine and underwater areas which extend beyond the territorial waters, of the States concerned upon which the latter exercises, in accordance with international law, sovereign rights and jurisdiction for the purpose of exploring, exploiting and preserving natural resources.

5. The term "environmental legislation" shall mean any legislation of the Contracting Parties, or provision thereof, the primary purpose of which is the protection of the environment, or the prevention of a danger to human, animal, or plant life or health.

6. The term "labour legislation" shall mean: the legislation of the Sultanate of Oman or of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg, or provisions thereof, that are directly related to the international Labour Conventions that each Contracting Party has ratified.

Article 2. Promotion of Investments

1. Each Contracting Party shall promote and create favourable conditions for the investors of the other Contracting Party to invest in its territory, and shall admit such investments in accordance with its legislation and with the provisions of this Agreement.

2. Each Contracting Party shall in accordance with its applicable laws and regulations accord to the investor and to those whose work relates to the investments such as experts, administrators, technicians and labourers, the necessary facilities and permits for entry, exit, residence and work,

3. Each Contracting Party shall authorize the conclusion and the fulfilment of licences, contracts and commercial, administrative or technical assistance agreements, as far as these activities are in connection with such investments and in accordance with the applicable laws of each Contracting Party.

Article 3. Treatment of Investments

1. Investments and returns of investors of either Contracting Party shall be accorded fair and equitable treatment and enjoy full protection and security in the territory of the other Contracting Party.

2. Each Contracting Party shall in its territory accord to investments and returns of investors of the other Contracting Party treatment not less favourable than that which it accords to investments and returns of investors of its own investors or to investments and returns of investors of any third state, whichever is more favourable to the investors.

3. Each Contracting Party shall in its territory accord to investors of the other Contracting Party treatment not less favourable than that which it accords to its own investors or to investors of any third state with respect to management,

maintenance, operation, enjoyment or disposal of their investments, whichever is more favourable to the investor.

4. Provisions of paragraphs (2) and (3) of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefits of any treatment, preference or privilege resulting from:

a) any membership or affiliation to a Free Trade Area, a present or future Customs Union, Common Market, Economic Union or any other form of regional economic cooperation;

b) any Agreement on Avoidance of Double Taxation or any other form of agreement or matters related to taxation.

5. The provisions of paragraph (2) of this Article shall not oblige the Sultanate of Oman to accord investors of the other Contracting Party the same treatment that it accords to its own investors with regard to ownership of lands and real estate and obtaining grants and soft loans.

Article 4. Environment

1. Recognising the right of each Contracting Party to establish its own levels of domestic environmental protection and environmental development policies and priorities, and to adopt or modify its environmental policy according to its domestic environmental legislation, each Contracting Party shall strive to ensure that its legislation provide for high levels of environmental protection according to the requirement of the international laws and conventions in which the Contracting Parties are involved, and shall strive to continue to improve this legislation as required, to preserve the environment and develop the natural resources.

2. Each Contracting Party shall strengthen its own capacity to protect the environment while promoting sustainable development. No Contracting Party shall change its current or future domestic environmental legislation based on the international laws and conventions in which these Contracting Parties are involved, to encourage, maintain or expand an investment that will be made in its territory.

3. The Contracting Parties recognise that co-operation between them provides enhanced opportunities to improve environmental protection standards. Upon request by either Contracting Party, the other Contracting Party shall accept to hold expert consultations on any matter falling under the purpose of this Article.

Article 5. Labour

1. Recognising the right of each Contracting Party to establish its own domestic labour standards, and to adopt or modify accordingly its labour legislation.

2. No Contracting Party shall change its domestic labour legislation to encourage, maintain or expand an investment, that will be made in its territory.

Article 6. Nationalization and Expropriation

1. Each Contracting Party undertakes not to adopt any measure of expropriation or nationalization or any other measures having the effect of directly or indirectly dispossessing the investors of the other Contracting Party of their investments in its territory.

2. If reasons of public interest, security or national interest require a derogation from the provisions of paragraph 1, the following conditions shall be complied with:

a) the measures shall be taken in accordance to the applicable laws of each Contracting Party;

b) the measures shall be neither discriminatory, nor contrary to any specific commitments,

3. Any measures for expropriation shall include prompt, adequate and effective compensation to be calculated on the basis of the market value of the investments immediately before the decision for expropriation was announced or became publicly known. Where the market value cannot be readily ascertained, the compensation shall be determined in accordance with the generally recognized principles of valuation and on equitable principles taking into account, inter alia, the capital invested, depreciation, replacement value and other relevant factors.

4. The amount of compensation, as mentioned in paragraph (3) of this Article, shall be determined and paid without delay in a period not more than six months from the date of the decision for expropriation. In case of payment delay an interest on the compensation amount shall be calculated at the current commercial rate of interest applicable to the currency in which the investment was originally undertaken, starting from the end of the determined duration until the date of payment

where the said period shall not exceed another three months.

5. Investors of either Contracting Party whose investments have been affected by expropriation, shall be entitled to prompt review of their case in relation to the valuation of their investment and the payment of compensation in accordance with the provisions of this Article, by a judicial authority or any other competent authority of the host Contracting Party for the investment.

Article 7. Compensation for Losses

1. Investors of one Contracting Party whose investments have sustained losses due to war or any other armed conflict, revolution, state of national emergency, revolt, insurrection or riot occurring on the territory of the latter Contracting Party, shall be accorded by the latter Contracting Party, treatment as regards restitutions, indemnifications, compensations or other settlement not less favourable than that granted to its own investors or investors of any third state, whichever is more favourable to the investors concerned.

2. The provision of paragraph (1) of this Article shall be binding upon investors of one Contracting Party who in any of the situations referred to in that paragraph suffer losses in the territory of the other Contracting Party resulting from:

- a) requisitioning of their property by the forces or authorities of the latter Contracting Party or,
- b) destruction of their property, by the forces or authorities of the latter Contracting Party, which was not caused in combat action or was not required by the necessity of the situation.

Article 8. Transfers

1. Each Contracting Party, on the territory of which the investment has been made by investors of the other Contracting Party, shall guarantee to these investors the free transfer of all payments relating to the investment and in particular but not exclusively:

- a) capital and additional capital amounts being used to maintain or expand existing investments and any other amounts appropriated for the coverage of expenses connected with the management of the investments;
- b) amounts necessary for payments under a contract, including amounts necessary for repayment of loans, royalties and other payments resulting from licences, franchises, concessions and other similar rights, as well as salaries of expatriate personnel;
- c) wages, remuneration and accruals of nationals of the other Contracting Party and nationals of any other third state who are allowed to engage in activities related to investments made in its territory;
- d) returns;
- e) proceeds from the total or partial sale and /or liquidation of any investment by an investor of the other Contracting Party, after payment of their financial obligations;
- f) compensation paid pursuant to Article 6 & 7.

Transfers shall be made in a freely convertible currency at the market rate of exchange applicable on the date of transfer.

Article 9. Subrogation

1. If one Contracting Party or its designated agency pays compensation to its own investors pursuant to a guarantee, insurance contract or an indemnity providing coverage for an investment made in the territory of the other Contracting Party, the first mentioned party has, in this case, full rights of subrogation with regard to the rights and actions of the said investor including the rights mentioned in Article 12.

2. As far as the transferred rights are concerned, the other Contracting Party shall be entitled to invoke against the insurer who is subrogated into the rights of the indemnified investors the obligations of the latter under law or contract.

Article 10. Application of other Rules

If the laws of either Contracting Party or their existing obligations under International Law at present or established hereafter by the Contracting Parties, in addition to the present Agreement, contain provisions whether general or specific,

entitling investments by investors of the other Contracting Party to a treatment more favourable than is provided for by the present Agreement, such provisions to the extent that they are more favourable, shall prevail over the present Agreement and the investors of the other Contracting Party shall be entitled to avail themselves of the provisions that are the most favourable to them.

Article 11. Special Commitment

Investments having formed the subject of a special commitment of one Contracting Party, with respect to the investors of the other Contracting Party, shall be governed, without prejudice to the provisions of this Agreement, by the terms of the said commitment if the latter includes provisions more favourable than those of this Agreement.

Article 12. Settlement of Disputes between an Investor and a Contracting Party

1. Any dispute concerning investments between one Contracting Party and an investor of the other Contracting Party shall, if possible, be settled amicably by negotiations between the two parties concerned.

2. If such a dispute cannot be settled within a period of three months from the date of receipt of request for settlement, the investor may submit the dispute to:

a) The competent court of the Contracting Party in whose territory the investment has been made; or

b) International arbitration under:

I. The rules of arbitration of the United Nations Commission on International Trade Law (UNCITRAL), or

II. The rules of arbitration of the International Chamber of Commerce (ICC), or

III. The rules of the International Center for the Settlement of Investment Disputes (ICSID), or

IV. An international arbitrator or ad hoc arbitral tribunal to be established upon an agreement between the parties to the dispute.

c) In addition to paragraph (2/b), International Arbitration procedures involving the government of the Sultanate of Oman, the investor may submit the dispute to:

I. Arab Investment Tribunal in accordance with chapter six of the Unified Agreement for Investment of Arab Capital, or

I. GCC Commercial Arbitration Center.

If the arbitration proceedings have been introduced upon the initiative of a Contracting Party, this Party shall request the investor involved in writing to designate the arbitration organization to which the dispute shall be referred,

d) Any other form of dispute settlement agreed upon by the parties to the dispute.

3. In case of the International Arbitration, each Contracting Party hereby gives its unconditional consent to the submission of a dispute between it and an investor of the other Contracting Party to arbitration in accordance with this Article.

4. If an investor concerned with the dispute decides to submit the case to one of the authorities mentioned in paragraph (2) of this Article, the said investor shall have no right to submit it to any other authority.

5. Awards issued by an arbitral tribunal shall be final and legally binding upon the parties to the disputes and each Contracting Party shall put into force these awards in accordance with its domestic laws,

6. A Contracting Party which is a party to a dispute shall not at any stage of arbitration proceedings or enforcement of an arbitration award, raise the objection that the investor who is the other party to the dispute has received an indemnity to cover all or part of its losses by virtue of an indemnity, guarantee or insurance contract provided for in Article 9 of this Agreement.

Article 13. Settlement of Disputes between the Contracting Parties

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall be, if possible, settled by negotiations through diplomatic channels.

2. In the absence of a settlement through diplomatic channels, the dispute shall be submitted to a joint commission

consisting of representatives of the two Parties; this commission shall convene without undue delay at the request of the first party to take action.

3. If the joint commission cannot settle the dispute, the latter shall be submitted, at the request of either Contracting Party, to an arbitration tribunal set up as follows for each individual case:

a) Each Contracting Party shall appoint one arbitrator within a period of two months from the date on which either Contracting Party has informed the other Party of its intention to submit the dispute to arbitration. Within a period of two months following their appointment, these two arbitrators shall appoint by mutual agreement a national of a third State which maintains diplomatic relations with both Contracting Parties, and who shall be designated as chairman of the tribunal.

b) If appointments of arbitrators have not been made within the period specified in paragraph (a) of this Article, either Contracting Party may invite the President of the International Court of Justice to make the necessary appointments.

c) If the President of the International Court of Justice is a national of either Contracting Party or of a country with which one of the Contracting Parties has no diplomatic relations or if, for any other reason, he cannot exercise this function, the Vice-President of the International Court of Justice shall be requested to make the appointments.

d) If the Vice-President is a national of either Contracting Party or is prevented from discharging the said function, the member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointments.

4. The tribunal thus constituted shall determine its own rules of procedure. Its decisions shall be taken by majority of votes; they shall be final and binding on the Contracting Parties.

5. Each Contracting Party shall bear the costs resulting from the appointment of its arbitrator, The expenses in connection with the appointment of the chairman and the administrative costs of the tribunal shall be borne equally by the Contracting Parties, unless the arbitral tribunal decides otherwise.

6. The arbitral tribunal may interpret its decisions at the request of either Contracting Party.

Article 14. Application of the Agreement

1. This Agreement shall also apply to investments made prior to its entry into force by investors of one Contracting Party in the territory of the other Contracting Party in accordance with the latter's laws and regulations.

2. This Agreement shall not apply to any dispute that has arisen or any claims concerning investments made prior to the entry of this Agreement into force.

Article 15. Entry Into Force and Duration

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

Unless notice of termination is given by either Contracting Party at least one year before the expiry of its period of validity, this Agreement shall be tacitly extended each time for a further period of twenty years.

2. Investments made prior to the date of termination of this Agreement shall be covered by this Agreement for a period of twenty years from the date of termination.

IN WITNESS WHEREOF, the undersigned representatives, duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at, on this day of 1429 H, corresponding to day of 2008, each in the English, French, Dutch and Arabic languages, all texts being equally authentic. The text in the English language shall prevail in case of difference of interpretation.

FOR THE BELGIUM-LUXEMBOURG ECONOMIC UNION:

For the Kingdom of Belgium:

For the Grand-Duchy of Luxembourg:

For the Walloon Region:

For the Flemish Region:

For the Brussels-Capital Region:

FOR THE SULTANATE OF OMAN: