

Agreement for the Reciprocal Promotion and Protection of Investments between the Government of the Sultanate of Oman and the Government of the Republic of Yemen

The Government of the Sultanate of Oman and the Government of the Republic of Yemen (hereinafter referred to in this Agreement as the "Contracting Parties");

Desiring to intensify the economic cooperation between the two sister nations and serve their mutual interests;

Reaffirming their determination to create and nurture favorable conditions for capital investment by investors of one Contracting Party in the territory of the other Contracting Party;

Recognizing that the encouragement and mutual protection of investments in accordance with the rules and legislation regarding investment in both Contracting Parties, and the provisions of this Agreement, will contribute to the stimulation of investment, which will promote prosperity for both Contracting Parties;

Have agreed as follows:

Article 1. Definitions

For the purpose of this Agreement:

1) The term "Investment" shall mean every kind of asset invested by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the legislation of the host state and after receiving an investment certificate.

The term "Investment" shall include, in particular, though not exclusively:

a) Movable and immovable property rights as well as guarantees related to them such as mortgages, privileges and other loans.

b) Assets, stocks, shares and debentures of companies.

c) Debts as well as debt-service resulting from a contract relating to investment.

d) Intellectual and industrial property rights as well as intangible elements relating to commercial assets, which include trademarks, patents, designs, goodwill and so on, used in a licensed investment project.

e) Concession rights granted under the laws of the host party, including the rights to extract, exploit and search for natural resources, which accord its' beneficiaries a legal character for the duration of the concession..

2) The term "Investor" shall mean for both Contracting Parties:

a) Natural persons having the citizenship of one of the Contracting Parties in accordance with its legislation, investing in the territory of the other Contracting Party.

b) Legal persons whose head office is in the territory of either Contracting Party, having real economic activity in the territory of a Contracting Party, and established in accordance with its national legislation.

3) The term "Returns" shall mean net amounts yielded by investments in accordance with the laws in force in the host country, and in particular, but not exclusively, shall mean profits, dividends, royalties and fees.

4) The term "Territory" shall mean:

The territory of the Contracting Party under its sovereignty, including territorial waters and exclusive economic zone, as well as the continental shelf and other marine territories which it has sovereignty or jurisdiction over, in conformity with

international law.

Article 2. Promotion of Investments

1) Each Contracting Party shall in its territory encourage investments made by nationals of the other Contracting Party, and shall allow such investments in a manner not inconsistent with its laws, and shall grant all the facilitations necessary for its establishment.

(2) Each Contracting Party shall provide the necessary means and permits for the entry, exit, residence and work for investors as well as experts, administrators and workers they are affiliated with regularly or temporarily, in accordance with the laws and regulations of the host state.

Article 3. Protection of Investments

The Contracting Parties shall grant fair and equitable treatment to investments made by investors of the other Contracting Party. They shall not subject the administration, maintenance, use, transfer, enjoyment or termination of investments made by investors of one Contracting Party in the territory of the other Contracting Party, and the companies and projects in which such investments were made, to any discriminatory or legally unjustified measures.

Article 4. Returns of Investments

Returns on investment reinvested in accordance with the laws and regulations of the host Contracting Party shall enjoy the same protection and privileges as are accorded to the original investment.

Article 5. National Treatment and Most-favored-nation Treatment

Each Contracting Party shall in its territory grant investments made by nationals of the other Contracting Party treatment not less favorable than that it accords to the investments and returns of its own nationals or nationals of any third State.

However, this treatment shall not apply to benefits accorded to investors of a third state by either Contracting Party based on a membership of that Contracting Party in a free trade zone, customs union, common market, regional economic arrangement, or under any agreement on the avoidance of double taxation or for the facilitation of frontier trade.

Article 6. Expropriation

1) Investments made by nationals of either Contracting Party in the territory of the other Contracting Party shall not be subjected to nationalization, confiscation or any similar measures. Investments may not be expropriated except for the public good. Expropriation shall be carried out in accordance with the law and on a non-discriminatory basis, and against fair and prompt compensation that shall be calculated on the basis of market value of the expropriated investments immediately prior to expropriation. Such compensation shall be immediately collectable and transferable without delay in a convertible currency.

(2) The provisions of paragraph (1) shall apply where a Contracting Party, under applicable law, expropriates assets of a company or enterprise in which investors who are nationals of the other Contracting Party own shares.

Article 7. Compensation for Damage or Loss

If investments made by an investor of either Contracting Party in the territory of the other Contracting Party suffers damages or losses owing to a revolution, war or other armed conflict, state of emergency, civil insurgence or any other similar incident, the Contracting Party in which territory the investment was made shall grant the investor compensation for such damages or losses, no less than that it grants its own investors or investors of any third state, whichever is more favorable.

Article 8. Transfers and Re-transfers

1) Both Contracting Parties shall allow investors of the other Contracting Party to transfer the following abroad without undue delay, in a convertible currency and at the exchange rate adopted on the day of the transfer:

a) the invested capital, including reinvested returns for the purpose of maintaining or increasing existing investment.

- b) Net returns.
- c) Revenue from the total or partial sale or the total or partial liquidation of any investment.
- d) Funds allocated for the repayment of loans related to investment and the payment of financial expenses related thereto.
- e) Amounts of compensation mentioned in Articles (6) and (7) of this Agreement and payments received from disputes.
- f) Fees and allowances paid to nationals of a Contracting Party for work and services related to investment in the territory of the host Contracting Party.

Article 9. Transfer Procedures

Each Contracting Party shall permit the transfer of the amounts referred to in Article (4) of this Agreement abroad without undue delay within six months after the fulfillment of all financial obligations related to investment in accordance with the laws and procedures of the host Contracting Party, or after providing sufficient and satisfactory guarantees attesting to the fulfillment of those obligations. In case of delay after this period has expired, interest shall be paid, calculated on the basis of the normal commercial interest rate up to the date of payment.

Transfers shall be made in a convertible currency in which the investment was originally made or in any other convertible currency agreed upon by the investor and the Contracting Party concerned.

Article 10. Subrogation

If a Contracting Party or its designated agency makes a payment to any of its own investors under a guarantee in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall, without prejudice to the rights of the Contracting Party in accordance with Article (7), recognize the transfer of rights of that investor to the former Contracting Party or its designated agency, the subrogation of the former Contracting Party or its designated agency in respect of these rights and shall not have the right to exercise any right that the investor does not have.

Article 11. Settlement of Investment Disputes

- 1) If an investment dispute arises between either Contracting Party and an investor of the other Contracting Party, they shall attempt to settle it amicably.
- 2) If the Contracting Party and the investor are unable to reach an agreement within six months after submitting a written request to conduct friendly settlement talks, the dispute shall be settled by resorting to one of the following means, at the choice of the investor:
 - a) The competent courts in the territory of the host Contracting Party;
 - b) An ad-hoc arbitration tribunal, established in accordance with the arbitration rules of the host Contracting Party;
 - c) The Arab Investment Court, established in accordance with the provisions of the The Unified Agreement for the Investment of Arab Capital in the Arab Countries;
 - d) Arbitration or conciliation at the International Center for Settlement of Investment Disputes, established under the Convention on the Settlement of Investment Disputes between States and Nationals of other States signed in Washington D.C. on 18th March, 1965, in case of accession or upon the accession of the Contracting Parties to this Agreement.
- 3) The arbitral awards shall be final and binding on both parties, and each Contracting Party shall be bound to implement these decisions.

Article 12. Settlement of Disputes between the Contracting Parties

- 1) Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall be settled, whenever possible, through consultation through diplomatic channels.
- 2) If the Contracting Parties do not reach an agreement within six months after submitting the written request for consultation, the dispute shall be submitted, at the request of either Contracting Party, to an arbitration tribunal of three arbitrators. Each Contracting Party shall appoint one arbitrator. The two appointed arbitrators shall appoint the third arbitrator, who shall serve as the Chairperson of the tribunal. The Chairperson shall be a national of a third state having

diplomatic relations with both Contracting Parties at the time of appointment.

3) The Contracting Party requesting arbitration shall appoint an arbitrator in the arbitration request. If the other Contracting Party does not appoint an arbitrator within two months from receiving the request for arbitration, an arbitrator shall be appointed by the President of the International Court of Justice at the request of the Contracting Party requesting arbitration.

4) If the two arbitrators fail to agree on the appointment of the President within sixty days of the appointment of the second arbitrator, they shall be appointed by the President of the International Court of Justice at the request of either Contracting Party.

5) In the cases specified in paragraphs (3) and (4) of this Article, if the President of the International Court of Justice is unable to perform said tasks or if they are a national of either Contracting Party, the appointments shall be made by the Vice-President of the International Court of Justice. If the latter is unable to make these appointments, or if they also are a citizen of either Contracting Party, the appointments shall be made by a member of the International Court of Justice next in seniority who is not a national of either Contracting Party.

6) The Tribunal shall determine its own procedures and place of arbitration, unless otherwise agreed by the Contracting Parties.

7) Each Contracting Party shall bear all expenses related to its appointed arbitrator as well as all expenses related to its representation during the arbitration proceedings. Unless the Tribunal decides otherwise, the expenses related to the President shall be equally shared by the Contracting Parties.

8) The Tribunal's decisions shall be final and binding on both Contracting Parties.

Article 13. Scope of Application

This Agreement shall apply to all investments, whether made before or after the date of entry into force of this Agreement. However, it shall not apply to any investment dispute arising prior to its entry into force, or any investment claim that has been settled prior to the entry into force.

Article 14. Entry Into Force

Each Contracting Party shall notify the other Contracting Party regarding the completion of ratification procedures of this Agreement. The Agreement shall enter into force thirty days after the date of the last notification.

Article 15. Duration and Termination

1) This Agreement shall remain in force for ten (10) years and shall be automatically renewed for a similar period or periods of time, unless terminated according to paragraph (2) of this Article.

2) Either Contracting Party may terminate this Agreement at the end of the first ten-year period or at the end of any extension period by notifying the other Contracting Party in writing one year prior to the intended termination date.

3) Regarding investments made prior to the termination date of this Agreement, the provisions of this Agreement shall remain effective for a period of twenty years from the date of termination.

In witness whereof the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done in duplicate in Sana'a on Jumada al-Ula, 1419 H.J, corresponding to 20/9/1998, in the Arabic language, both texts being equally authentic.

For the Government of the Sultanate of Oman

For the Government of the of the Republic of Yemen