

Agreement on Economic Cooperation and Protection of Investments between the Kingdom of the Netherlands and the Islamic Republic of Pakistan

The Government of the Islamic Republic of Pakistan

And

The Government of the Kingdom of the Netherlands,

Reaffirming the friendly relations existing between the two countries and their peoples; Firmly desiring to intensify these relations, to promote economic cooperation, to provide mutual protection of investments, and to create the necessary legal and administrative framework for that purpose;

Have agreed as follows:

Article 1.

For the purposes of the present Agreement:

(a) The term 'investments' shall comprise every kind of goods, rights and interests of whatsoever nature, which have been invested in accordance with the laws of the Party in the territory of which the investment is made, in particular, though not limited to the following:

- i. Movable and immovable property as well as any other rights in rem in respect of every kind of asset;
- ii. Rights derived from shares, bonds and other kinds of interests in companies and joint ventures;
- iii. Title to money, and other assets and to any performance having an economic value;
- iv. Rights in the field of intellectual property, technical processes and know-how;
- v. Rights granted under public law, including rights to prospect, explore, extract and exploit natural resources.

(b) The term 'nationals' shall comprise with regard to either Contracting Party:

- i. Natural persons having the nationality of that Contracting Party in accordance with its laws;
- ii. Without prejudice to the provisions of (iii) hereafter, legal persons constituted in accordance with the laws of that Contracting Party;
- iii. Legal persons controlled, directly or indirectly, by nationals of that Contracting Party but constituted in accordance with the laws of the other Contracting Party.

(c) The term 'territory' includes the maritime areas adjacent to the coast of the Country concerned, to the extent to which that Country may exercise sovereign rights or jurisdiction in those areas according to international law.

Article 2.

The Contracting Parties shall within the framework of their laws and regulations and taking into account their international obligations, do their utmost to develop and strengthen, on a mutually advantageous basis, economic and technological cooperation between the two countries.

Article 3.

1) The Contracting Parties shall in particular encourage and promote economic and technological cooperation on a, long term basis between:

(a) Nationals of the respective States;

(b) Nationals of the one State and the other State or its agencies.

2) The cooperation which the Contracting Parties undertake to encourage according to paragraph (1), shall in particular include the establishment of projects and enterprises. Such cooperation may be undertaken through equity participation, loan finance, joint venture or otherwise.

Article 4.

The Contracting Parties recognize that the cooperation may concern inter alia industry, mining, energy, land and water development, commerce, agriculture, area and rural development, infrastructure, transportation-infrastructure, communications, engineering and other services.

They shall inform each other of specific sectors in which they consider cooperation desirable.

Article 5.

The technological cooperation referred to in Article 3 may be implemented, subject to the laws and regulations of either Contracting Party, through projects and enterprises in which economic cooperation between their respective nationals will be initiated or enhanced. Such cooperation may include inter alia:

(a) The facilitation of direct contacts, the exchange of information and the elaboration of programmes;

(b) The joint conduct of research projects

(c) The exchange of visits and study tours of specialised delegations, research personnel and specialists;

(d) The development or training techniques and systems and the training of technical personnel;

(e) The provision of managerial and technical expertise;

(f) The convening of symposia and meetings on subjects of mutual interest.

Article 6.

1) Each Contracting Party shall ensure fair and equitable treatment to the investments of nationals of the other Contracting Party and shall not impair, by unjustified or discriminatory measures, the operation, management, maintenance, use, enjoyment or disposal thereof by those nationals.

2) More particularly, each Contracting Party shall accord to such investments, in the framework of its laws and regulations, full, security and protection which in any case shall not be less than that accorded to investments of nationals of any third Country.

Article 7.

Each Contracting Party shall authorize the transfer, without undue restriction and delay, to the country of the other Contracting Party and in the currency of that country or any freely convertible currency of payments resulting from investment activities and in particular of the following items:

(a) Profits, interests, dividends and other current income;

(b) Reasonable proportions of earnings of natural persons;

(c) The proceeds of liquidation of capital;

(d) Funds in repayment of loans;

(e) Management fees;

(f) Royalties.

Article 8.

Neither Contracting Party shall take any measures depriving, directly or indirectly, nationals of the other Contracting Party of their investments unless the following conditions are complied with:

- (a) The measures are taken in the public interest and under due process of law;
- (b) The measures are not discriminatory or contrary to any undertaking which the former Contracting Party may have given;
- (c) The measures are accompanied by provision for the payment of just compensation. Such compensation shall represent genuine value of the investments affected and shall, in order to be effective for the claimants, be paid and made transferable, without undue delay, to the country of which those claimants are nationals and in the currency of that country, or in any convertible currency.

Article 9.

If the investments of a national of the one Contracting party are insured against non-commercial risks under a system established by law, any subrogation of the insurer or reinsurer into the rights of the said national pursuant to the terms of such insurance shall be recognized by the other Contracting Party.

Article 10.

The Contracting Party in the territory of which a national of the other Contracting Party makes or intends to make an investment, shall assent to any demand on the part of such national to submit, for arbitration or conciliation, to the Centre established by the Convention of Washington of 18 March 1965 on the settlement of investment disputes between States and nationals of other States, any dispute that may arise in connection with the investment.

Article 11.

The provisions of the Agreement shall, from the date of entry into force thereof, also apply:

With regard to the Islamic Republic of Pakistan: to investments which have been made by nationals of the Kingdom of the Netherlands with the approval of the Government of the Islamic Republic of Pakistan on or after 1 September, 1954.

With regard to the Kingdom of the Netherlands: to investments of nationals of the Islamic Republic of Pakistan which have been made in accordance with the laws and regulations of the Kingdom before the entry into force of the present Agreement.

Article 12.

The Contracting Parties agree to establish a Joint Committee on economic and technological cooperation. The Committee shall be composed of representatives to be appointed by the respective governments in connection with any meeting of the Committee. Experts and advisors from both private and public sectors may be called upon at the request of either side, to attend the meeting of the Committee.

The Committee shall:

Discuss any matter pertaining to the implementation of the present Agreement, and make recommendations thereon;

Explore and define sectors in which it considers the cooperation between the two countries may be broadened, and make recommendations thereon.

The Committee may appoint specialized working parties to deal with cooperation in particular sectors. The working parties shall report to the Joint Committee.

The Committee shall meet at the request of either Party to the Agreement.

Article 13.

In respect of any matter governed by the present Agreement nothing in this Agreement shall prevent a national of the one Contracting Party from benefiting from any right more favourable to him and accorded by the other Contracting Party.

Article 14.

- 1) Any dispute between the Contracting Parties concerning the interpretation or application of the present Agreement which cannot be settled, within a reasonable lapse of time, by means of diplomatic negotiations, shall, unless the Parties have otherwise agreed, be submitted, at the request of either party of the dispute, to an arbitral tribunal, composed of three members. Each Party shall appoint one arbitrator and the two arbitrators thus appointed shall together appoint a third arbitrator as their chairman who is not a national of either Country.
- 2) If one of the parties fails to appoint its arbitrator and has not proceeded to do so within two months after an invitation from the other party to make such appointment, the latter party may invite the President of the International Court of Justice to make the necessary appointment.
- 3) If the two arbitrators are unable to reach agreement, in the two months following their appointment, on the choice of the third arbitrator, either party may invite the President of the International Court of Justice, to make the necessary appointment.
- 4) If, in the case provided for in the second and third paragraph of this Article, the President of the International Court of Justice is prevented from discharging the said function or is a national of either Country, the Vice-President should make the necessary appointments. If the Vice-President is prevented from discharging the said function or is a national of either Country, the most senior member of the Court available who is not a national of either Country should make the necessary appointments.
- 5) The tribunal shall decide on the basis of respect for the law. Before the tribunal decides, it may at any stage of the proceedings propose to the parties that the dispute be settled amicably. The foregoing provisions shall not prejudice the power of the tribunal to decide the dispute in justice and good faith if the parties so agree.
- 6) Unless the parties decide otherwise, the tribunal shall determine its own procedure.
- 7) The tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding on the parties to the dispute.

Article 15.

As regards the Kingdom of the Netherlands, the present Agreement shall apply to the part of the Kingdom in Europe and to Aruba, unless the notification provided for in Article 16, paragraph (1) provides otherwise.

Article 16.

- 1) The present Agreement shall enter into force on the first day of the second month following the date on which the Contracting Parties have informed each other in writing that the procedures constitutionally required therefor in their respective countries have been complied with, and shall remain in force for a period of 15 years.
- 2) Unless notice of termination has been given by either Contracting Party at least six months before the date of the expiry of its validity, the present Agreement shall be extended tacitly for periods of 10 years, each Contracting Party reserving the right to terminate the Agreement upon notice of at least six months before the date of expiry of the current period of validity.
- 3) In respect of investments made before the date of the termination of the present Agreement the foregoing Articles thereof shall continue to be effective for a further period of 15 years from that date.
- 4) Subject to the period mentioned in paragraph (2) of this Article, the Government of the Kingdom of the Netherlands shall be entitled to terminate the application of the present Agreement separately in respect of Aruba.

IN WITNESS WHEREOF, the undersigned representatives, duly authorized hereto, have signed the present Agreement.

DONE in duplicate at [place], in the English language, on [date]

For the Government of the Kingdom of the Netherlands:

For the Government of the Islamic Republic of Pakistan:

