

# Agreement between the State of United Arab Emirates and the Government of the Republic of Sudan for the promotion and reciprocal protection of investments

The Government of the United Arab Emirates and the Government of Republic of Sudan hereinafter referred to as the "Contracting Parties";

Desiring to create favourable conditions for the development of economic cooperation between them to encourage the investments carried out by investors of one Contracting Party in the territory of the other Contracting Party;

Recognizing that the promotion and reciprocal protection of investments will be an incentive to promote the commercial initiatives and to increase prosperity in both contracting parties;

Have agreed on the following:

## Article 1. Definitions

For the purposes of this Agreement, unless the context otherwise requires,

1. The term "Investment" means all types of assets that are located in a contracting state owned or dominated by an investor of the other contracting state, either directly or indirectly, either through a subsidiary or dependent institutions, wherever they are located in a contracting state or in a third country, the term includes in particular:

A. Tangibles and intangibles, and movable and immovable property and any related ownership rights, such as rents, mortgages, debt privileges, possessory mortgages, usufruct and other similar rights.

B. A company, a business enterprise, a joint project, quotas or shares and other forms of contribution to the property, debentures and other forms of debt rights in a company or a business enterprise or a joint project and other debts, loans and securities issued by an investor of a contracting state.

C. Claims for money or claims for any other assets or performance according to a contract with economic value.

D. Intellectual and industrial property rights that should be registered in accordance with the provisions of the special law for each owned by the investor or licensed for use by the holder, including but not limited to: copyright, trademarks, patents, industrial designs and models, technical operations, expertise, trade secrets, trade names and the fame,

E. Any right that's ratified by the law or a contract or by virtue of any licenses or permits granted by the law, including the rights of prospecting, exploration, extraction, exploitation of natural resources and the rights to manufacture, use and sell products, and the rights of exercising other economic and trade activities or providing services.

Any change in the form in which the assets are invested or reinvested shall not affect their nature as an investment.

The term "investment" shall also apply to "Returns" that are retained for reinvestment, and resulting from "liquidation" according to the definition of those terms later.

2. For a Contracting State, "investor" means:

A. Normal person that holding a citizenship of that contracting state according to its laws in force, or

B. The government of that contracting state and its financial institutions, or

C. Any legal person or other entity that founded legally under the laws and the regulations of that contracting state, such as the development funds, charitable and scientific institutions and establishments, agencies, enterprises and cooperatives and different companies and trade unions or similar entities, and any entity established outside the authority of the

contracting state such as a legal person that's owned or dominated by that contracting state or by any of its citizens or any entity created in its jurisdiction.

3. The term "revenue" means the sums achieved by the investments regardless of the form in which it is paid, it included in particular but not limited to: dividends and benefits, capital gains and dividends, royalties and management fees, technical assistance or other fees or payments and payments in any kind.

4. The term "Liquidation" means any act carried out for total or partial termination of investment.

5. The term "Territory" means:

For the U.A.E. State, once used in the geographical sense, the territory of the State of the U.A.E. includes its islands, the territorial waters, its exclusive economic zone, the continental shelf and the air space. Also, it includes over which the U.A.E. State practices sovereign rights in accordance with its national legislation and the international law.

For the Republic of Sudan, the term of the territory of the Republic of Sudan means Sudanese territory that lies under its sovereignty including islands, territorial sea, the exclusive economic zone, continental shelf areas and other maritime areas over which it practices the right to sovereignty or jurisdiction in accordance with the international law.

6. "Related activities" means, investment-related activities that are exercised in accordance with the law of the host contracting state for investment and those activities including but not limited to:

A. Construction, control and maintenance of branches, agencies, offices or other facilities to manage work,

B. Organization of companies or acquiring ownership of companies or interests in companies or in its properties, management and maintenance and control, use and enjoyment, expansion, sale or liquidation, termination or any other disposal of the organizing and acquiring corporations.

C. Performance and conclusion and implementation of contracts for investments,

D. Acquisition and the protection of ownership, the use, the disposal of all types of property by any legal means, including intellectual property.

E. Borrow money from local and international financial institutions, as well as purchase and sale, and issuance of stocks and other securities in local and international financial markets, the purchases of foreign currency to carry out investments.

F. The term " convertible currency" means any free use currency under the terms of the IMF Agreement and any amendments to it.

G. The term ' without delay ' means the period which is usually required to complete the necessary formalities for transfer payments. The mentioned period starts from the day that the transfer request applied in and must not exceed one month under any case.

## **Article 2. Admission and Promotion of Investments**

1. Each of the contracting states in accordance with its laws and regulations in force accept and encourage investments that carried out by investors of the other contracting state in its territory.

2. Each of the contracting states, in relation to the accepted investments in its territory, grants these investments, activities associated with the permissions, approvals, licenses, permits, to the extent permissible and in accordance with the principles and conditions set by its laws and regulations.

3. The contracting states may consult with any suitable means for promoting and facilitating investment opportunities within their respective territories.

4. Each of the contracting states, in accordance with its laws and regulations regarding the entry, the residence and the work of normal people, examine the requests of investors of the other contracting state and senior management staff including professionals, technical people, and administrator working for investment purposes to enter and reside in its territory. In addition, the family members are granted the same treatment with regards to entry and temporary residence in the host contracting state.

And each of the contracting states in accordance with its laws and regulations should allow all of the other contracting state investors who have investments in its territory to employing any person chosen by the investor, regardless of nationality or citizenship during the period in which it allows such a person to enter, to reside and work in the territory of the contracting

state mentioned first.

5. According to their laws and regulations, when transporting goods or people linked to investment, both contracting states should allow this transportation by projects of the other contracting state.

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

1. The investments carried out by investors of either contracting states enjoys full security and protection in the territory of the other contracting state in conformity with the universally recognized principles of international law, and with the provisions of this Agreement. The contracting states in any way, will not do any arbitrary or discriminatory actions detrimental to such investments or related activities, and both contracting parties are prevented from causing in any way to obstruct administration or maintenance, or use or enjoyments or disposal of investments related to the nationals of the other contracting party and their companies in their territory.

2. Each of the contracting states advertise or inform investors on all laws, regulations, judicial decisions and orders, procedures and administrative instructions that relate to or directly affect investments or activities linked in its territory for investors of the other contracting state.

3. Each of the contracting states provide effective means for the assertion of claims and the implementation of rights with respect to investments. Each contracting state should ensure the investors of the other contracting state their right to resort to the court, tribunals, administrative bodies and all other sectors that practice jurisdictions as well as their right to entrust chosen qualified persons according to the rules and regulations applicable for the purpose of confirming claims and implementing rights for their investments and associated activities.

4. Neither of the contracting states is allowed to impose on the other contracting state mandatory actions that may require, or restrict the purchase of materials, energy, fuel, means of production, transportation, any sort of operation, restrict the marketing of products within or outside the territory of the host contracting state or any discriminatory effect actions against its investments by investors of the other contracting state in favor of investments by its investors or third-country investors.

5. In addition, the investments in the host Contracting State shall not be subjected to the requirements of performance that may be harmful or with negative impact on its use or enjoyment or management or maintenance or expansion or other related activities unless such requirements considered vital to the considerations of public health or the environment and applied under a legal tool that generally applied.

6. Investments carried out by investors of either of the contracting states in the host contracting state must not be subjected to the guarding or confiscation or any similar procedures unless it's taken in accordance with legal procedures in accordance with applicable principles of international law and other relevant provisions of this Agreement.

7. Each of the two contracting states shall take into account the commitment or pledge may be a party to it, in relation to investments or related activities in its territory for investors of the other contracting state.

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

1. Each contracting state ensures that at all times the investments carried out by investors of the other contracting state in its territory to be fair and equitable treatment. That treatment should not be less favorable than those offered by similar conditions for private investments by its investors or investors of any third state, whichever is most favorable.

2. Each contracting state shall grant investors of the other contracting state with respect to investments and associated activities including the use, enjoyment and disposition, expansion investments treatment to be no less favorable than that accorded to their investors and investors of any third State.

3. However, the provisions of this article shall not be construed as an obligation to a contracting state to provide the institutional investors of the other contracting state any advantage or preference or privilege resulting from:

A. No Customs Union or a free trade area or economic Union or monetary Union or another form of regional economic arrangement or any other similar international Agreement on any of the Contracting Parties is or may become a party.

B. Any international, regional or bilateral Agreement or other similar arrangement and any domestic legislation concerning wholly or mainly to taxation.

### **Article 5. Compensation for Damage or Loss**

1. Investors have given one of the contracting states whose investments in the territory of the other contracting state for the damages or losses due to war or any armed conflict or other emergency or revolution or disturbances or riots or other similar treatment by the last contracting state with respect to the return to the status quo or restitution losses, or compensation or any other settlement, no less than those granted by the last contracting state to investors or to investors of any third state.

2. Without prejudice to paragraph (1) of article (5) of the investors of one contracting states who had caused harm or loss as a result of any of the events referred to in that paragraph in the territory of the other contracting state resulting from:

A. Temporary seizure of property or part of it by its troops or its authorities or,

B. Destruction of property or part thereof by its troops or its powers without due to combat operations, or without the need of the position required;

They shall be granted an immediate, effective and sufficient compensation for harm or loss suffered during the period of custody or as a result of the destruction of their property, the resulting payments should be paid in a freely convertible currency and must allow converting it freely and without delay.

## **Article 6. Nationalization and Expropriation**

1. Investments of investors of any of the contracting states are not subjected to custody or seize or sources or any similar impact actions that breach the international law. These investments enjoy full protection and security in the territory of the other Contracting State.

2. Contracting states shall not take any action to expropriate or nationalize or freeze assets or take any actions with similar effect or subjecting investment to any actions that have a direct or an indirect impact similar to expropriation including inappropriate taxation or forced sale of all or part of the investment or lead to obstruction or strip investors of management or control over their investments.

3. The actions in paragraph (1) and (2) of this article can be referred to only if the following conditions are met:

That actions taken for the sake of the public interest associated with true internal needs under the law and according to the local Constitution and general principles of international law.

That actions are not discriminatory.

To associate those actions with immediate sufficient and fair compensation.

4. The investor has the right to review the legality of any of the actions referred to in paragraphs (1) and (2) of this article and the review of compensation through the specialized court of a contracting state which has taken such an execution.

5. Compensation in the cases referred to in paragraphs (1) and (2) of this article must be adequate and equivalent to the market value of the investment before taking it straight or becomes known publicly, and if it isn't possible to find out the market value of the investment, compensation will be determined based on principles that taking into account, among other things: capital and consumption, replacement value and goodwill and other relevant alternatives. Compensation includes a benefit determined on the basis of the commercial rate of interest or the prevailing profit margin starting from the date of nationalization or expropriation until the date of payment.

## **Article 7. Transfers**

1. Each contracting party guarantee- with respect to investments of citizens or companies of the other contracting party- the free transfer of:

- Invested capital.

- Profits and benefits.

- All kinds of proceeds.

- Investment proceeds of liquidation in whole or in part.

- Loan payments to foreign investment unconditionally freely convertible currency for the value in force on the date of conversion.

- Air transport investment rewards.

- Transfers of investor users according to the applicable regulations of the host state.

## **Article 8. Subrogation**

1. If one of the contracting parties or the body concerned before making any payments under the compensation is granted with respect to investments in the territory of the other Contracting Party, the other contracting party shall recognize the rights of the first Contracting Party or his legally appointed or legal document implemented by him and that include all the rights and requirements of the other party that have been compensated, and recognizes the right of the first party or device specified by him to exercise those rights and implementation of claims under the right to replace his citizens to that range and borders that practiced by the party that had been guaranteed or compensated.

2. Contracting party or an device specified by them in all cases enjoy the same treatment that the other party who has been compensated under this Agreement and for investment and the proceeds arising from and in connection with the rights and debts acquired under their rights and for any payments received under those rights and debts.

## **Article 9. Settlement of Disputes between the Investor and the Host State**

Disputes that arise between citizens or a subsidiary of one of the contracting parties and the other contracting party concerning an obligation to the other party under this Agreement for an investment company owned by or masculinity and unresolved amicably, should be referred to international arbitration or the resort to the court of Arabic investment (under the provisions of chapter VI of the Agreement unified Arabic capital investment in Arabic countries), If any of the conflicting parties in that, under the arbitration rules elaborated by the United Nations commission on international trade law of 1976 and its in force amendments or any arbitration rules devised by the Commission rather than the rules of 1976 and its amendments, and the disputing parties may agree by writing to modify these rules. And the investor or the Contracting State may convey the dispute to the International Centre for Settlement of Investment Disputes (ICSID).

## **Article 10. Disputes between the Contracting Parties**

1. The settlement of disputes that arise between the contracting parties regarding the interpretation and application of this Agreement should, if possible, be settled through diplomatic channels.

2. If the settlement of dispute was not resolved within six months from the date of the request for such consultations or other diplomatic channels by either of the contracting states, and if the contracting party States did not agree to write, It is permissible for any of the contracting states to submit the dispute to an arbitral Tribunal to be convened for this purpose in accordance with the following provisions of this article by a written notification to the other contacting state.

The arbitral tribunal is composed of the following:

A. Within two months from the date of the receipt of the request, each Party shall designate one member of the Contracting Parties in the arbitration, and the latter shall choose a citizen of a third State to be headed as a Chairman of the Arbitration Commission after the approval by the Contracting Parties, the mentioned Chairman must be appointed within two months from the date of appointment.

B. If appointments didn't take place during the time periods limited in paragraph (a) of this article and in the absence of any other Agreement between the parties, any party may invite the Chairman of the International Court of Justice to make any necessary appointments, and if the Chairman is a citizen of any of the Contracting Parties or if he cannot complete the tasks mentioned, the Vice President is required to take the necessary appointments. If the Vice president is a citizen of any of the contracting parties, or if couldn't take the tasks listed, the member of the International Court of Justice - next in seniority and must not be a citizen of any of the contracting parties, is required to take the necessary appointments.

C. The arbitral take its decisions by the majority of votes, and such decisions are binding for the contracting parties. Each Party shall bear the costs of the Arbitration Committee member appointed and represented in the arbitral proceedings, the costs of the Chairman of the arbitration and the other remaining costs equally shared between the contracting parties. However, the Commission may decide to give one of the Contracting Parties the bulk of costs, and this decision is binding for the parties. The arbitration itself determine its own procedures.

## **Article 11. Relationship between Contracting States**

The provisions of this Agreement shall be applied irrespective of the existence of diplomatic or consular relations between

the two contracting parties.

## **Article 12. Application of other Provisions**

If the provisions of law applicable in the country of any contracting party or the obligations under international law existing at present, or arranged later for the purpose of signing this Agreement, in addition to the provisions of the present Agreement and include specific or general provisions entitle grant investments made by investors of the other Contracting Party a treatment more favorable than the treatment afforded by the present Agreement, then those provisions are dominant and superior than the provisions of the present Agreement.

## **Article 13. Scope of the Agreement**

This Agreement shall apply to all investments, whether existing before entered into force of this Agreement or made after that date by any investors of the contracting states in the territory of the other contracting state.

## **Article 14. Force of the Agreement**

The Agreement enters into force after (30 days) from the date of notifying the both parties to each other to fulfill the constitutional procedures necessary for the entry into force of this Agreement.

## **Article 15. Duration and Termination**

1. The Agreement will be in effect for ten (10) years, and will continue to be so for similar period or periods, unless either of the contracting states notifying the other Contracting State with a written notification with one year earlier the expiry of the initial duration or any subsequent period, of its intention to terminate the Agreement.

2. With regards to investments undertaken before the termination of this Agreement, the provisions of this Agreement remain valid for ten (10) years from the date of termination of this Agreement.

And witness thereof, the commissioners for both contracting states have signed this Agreement.

Done at date 2001 AD 1421 AH, in two copies in Arabic, and both versions have equal authentic.

On behalf of the Government of the U.A.E

Hamdan Bin Rashid Al Maktoum

Dubai Deputy Ruler

Financial and Industry Minister

On behalf of the government of the Republic of Sudan

Abdel Rahim Mahmoud Hamdi

Minister of Finance and National Economy