Agreement between the Government of the Socialist Republic of Vietnam and the Government of the Socialist Democratic Republic of Sri Lanka on the promotion and protection of investments

The Government of the Socialist Republic of Vietnam and the Government of the Socialist Democratic Republic of Sri Lanka (hereinafter referred to as the "Contracting Parties"),

Desiring to create favorable conditions for the development of economic cooperation between the two countries and in particular for investments by investors of one Contracting Party in the territory of the other Contracting Party, and

Recognizing that the mutual encouragement and protection of investments will be beneficial to the promotion of entrepreneurial initiative and the enhancement of prosperity in both Contracting Parties,

Have agreed the following:

Article 1. DEFINITIONS

For the purposes of this Agreement:

1. The term “investment” means any asset invested by an investor of one Contracting Party in connection with economic activity in the territory of the other Contracting Party and which has been approved in accordance with the laws of the Contracting Party. of that Contracting Party, and including property including or in the form of:

a) Shares, shares of the company, and other forms of capital contribution, bonds, debentures, and other forms of debt in the company, other debts, loans and securities issued by investors of an issuing Contracting Party;

b) The rights to claim money or the right to exchange for the performance of a contract have economic value;

c) Intellectual property rights, including copyrights, trademarks, patents, industrial designs and patterns, technical processes, know-how, trade secrets, trade names and business reputation business;

d) Any rights under any law, contract or rights derived from any license or authorization under the law, including rights to explore, seek, refine or use natural resources;

e) Any tangible or intangible property, movable or immovable, and any other property rights therein, such as leases, mortgages, liens and liens,

For greater certainty, investments under this Agreement do not include claims arising purely from:

(i) commercial contracts for the sale of goods or services by nationals or businesses in the territory of one Contracting Party to enterprises in the territory of the other Contracting Party; or

(ii) the granting of a credit in connection with a commercial transaction. as commercial lending.

Any change in the form of assets or property rights that have been invested or reinvested shall not affect their investment character, provided that such change is in accordance with the laws of the State. The Contracting Party receives the investment.

2. The term "investor" means for each Contracting Party:

a) natural persons possessing the nationality of a Contracting Party in accordance with the laws of that Contracting Party:

b) a juridical person incorporated or organized under the laws of that Contracting Party, such as a company, partnership, trust, joint venture, association or enterprise.

3. The term “income” means returns on an investment, regardless of form of payment, and in particular but does not include only profits, interest, capital gains, dividends, royalties, and administration fees, technical support fees, payments or other fees, and in-kind payments of any kind.

4. The term “territory” means:

a) For the Socialist Republic of Vietnam, it is the mainland territory, islands, internal waters, territorial sea and the airspace above, the waters beyond the territorial sea, including the seabed and the subsoil below. sea over which the Socialist Republic of Vietnam exercises its sovereignty, sovereign rights and jurisdiction in accordance with national and international law.

b) For the Socialist Democratic Republic of Sri Lanka, means the land territory, internal waters and territorial sea of the Socialist Democratic Republic of Sri Lanka and the seas beyond the territorial sea, including the seabed, and subsoil under the sea which, under applicable national or international law, has been or may be deemed to be under the sovereignty and jurisdiction of the Socialist Democratic Republic of Sri Lanka, with for the purpose of exploring and exploiting natural resources in that area.

5. The term "convertible currency" means any currency which the International Monetary Fund, from time to time, determines to be a freely usable currency in accordance with the Charter of the International Monetary Fund. and amendments to this Charter.

Article 2. SCOPE OF APPLICATION

1. This Agreement shall apply to investments invested by investors of one Contracting Party in the territory of the other Contracting Party which have been invested since before or after the date of entry into force of this Agreement. in force and has been approved in writing in accordance with the laws and policies of that Contracting Party.

2. This Agreement does not apply to investment disputes arising from past events, or to investment disputes that have been settled, or are in the process of settlement under judicial procedures. or tonnage prior to the entry into force of this Agreement.

3. This Agreement does not apply to:

a) taxes;

b) Government procurement;

c) subsidies or grants of a Contracting Party; and

d) services provided by the relevant or authorized body of a Contracting Party in the exercise of the powers of the Government. For the purposes of this Agreement, a service provided to enforce a Government's right is to be understood as any service provided on a non-commercial basis or on a competitive basis with one or more many service providers.

Article 3. INVESTMENT ENJOYMENT AND PROTECTION

1. Each Contracting Party shall encourage and create favorable conditions for investors of the other Contracting Party to invest in its territory, and to accept such investments subject to the exercise of its authority under its law.

2. Investments of investors of either Contracting Party shall at all times be treated fairly and equally and shall enjoy adequate and safe protection in the territory of the other Contracting Party. No Contracting Party shall use unreasonable or discriminatory means in any way to prejudice the management, maintenance, use, enjoyment or disposition of investments of the State. investment of the other Contracting Party in its territory.

Article 4. TREATMENT OF INVESTMENT

1. In connection with the use, management, operation, operation, expansion, sale or other disposition of an investment made by an investor of the other Contracting Party in its territory, each Contracting Party Contracting Party shall, in accordance with its domestic law, accord to investors of the other Contracting Party and their investments in its territory treatment no less favorable than that it accords to investors of the other Contracting Party. their investments and their investments under similar circumstances (National Treatment).

2. In connection with the use, management, administration, operation, expansion, sale or other disposition of an investment made by an investor of the other Contracting Party in its territory, each Contracting Party Agreement shall accord to

investors of the other Contracting Party and to their investments treatment no less favorable than that it accords to investments of investors of any third country in the circumstances similar (Most Favored Nation Treatment).

3. The provisions of this Article shall not be construed to oblige one of the Contracting Parties to accord to an investor of the other Contracting Party the benefit of any treatment, favor or privilege arising from:

a) Any customs union, economic union, free trade area, monetary union, or other regional or bilateral economic agreement or other similar international agreement to which each Party signed as a member or may become a member,

b) Any international, regional or bilateral agreement or other similar arrangement or any domestic legislation relating wholly or principally to taxation.

Article 5. COMPENSATION FOR LOSSES

In the event of an investment by an investor of either Contracting Party being damaged by war, other armed conflict, a state of national emergency, insurrection, riot, insurrection, rebellion, or similar event in the territory of the other Contracting Party, such investor shall be accorded treatment by the other Contracting Party, with respect to reimbursement, compensation, compensation or other settlement, no less favorable than that treatment accorded by that Contracting Party to its own investors or to investors of any third country, whichever is more favorable.

Article 6. PROPERTY RIGHTS

1. Investments of investors of one Contracting Party shall not be nationalized or expropriated in the territory of the other Contracting Party, except for public purposes and subject to prompt and satisfactory compensation. and effective.

Expropriation shall be effected on a non-discriminatory basis in accordance with the law of the Contracting Party making the expropriation.

2. Compensation shall be equal to the market value of the expropriated investment at the time of expropriation or at the time of notification of expropriation, whichever is earlier, and payment will be effected. Bidding is usually done in a freely convertible currency.

Compensation will include interest at the LIBOR rate, from the date of expropriation until the date of payment.

Where the above-mentioned market value of the investment cannot be determined, the amount of compensation will be determined according to fair principles, taking into account all relevant factors and circumstances, such as capital investment, sales investment quality and duration, replacement value, book value and business reputation.

3. Notwithstanding paragraphs 1 and 2 above, any measure of expropriation relating to land shall be subject to the law of the expropriation Contracting Party in respect of the condition. and compensation for expropriation.

For greater certainty, the payment of compensation for land-attached construction works, including buildings and infrastructure, will be made in accordance with paragraphs 1 and 2 above.

4. An investor of one Contracting Party affected by expropriation shall be entitled to prompt review of his case by a judicial or other independent authority of the other Contracting Party and the determination of value of the investment in accordance with the principles of the Article and the laws of the expropriating Contracting Party.

5. When a Contracting Party expropriates the property of a company incorporated and organized under its laws, in which investors of the other Contracting Party own shares, bonds or other forms of participation, the provisions of this Article shall apply to such investor's share in the said company.

Article 7. OUTWARD TRANSFER OF INVESTMENT RELATED PAYMENTS

1. Each Contracting Party shall, subject to its laws and regulations, guarantee to investors of the other Contracting Party the free passage into or out of its territory payments in connection with investments, including:

a) Initial capital and any additional capital to maintain, manage and develop the investment;

b) Incomes;

c) Contractual payments, including the amortization of capital and accrued interest arising from the loan contract;

d) Royalties and fees for rights under Article 1 paragraph 1 (c);

e) Proceeds from the sale or liquidation of all or part of the investment;

f) Employee earnings and other monies obtained from abroad in connection with the investment;

g) Compensation payments under Articles 5 and 6;

h) Payments arising from dispute settlement.

2. Money transfers shall be effected at the exchange rate of the currency to be transferred in effect on the date of remittance in the territory of that Contracting Party.

3. Notwithstanding paragraphs 1 and 2, a Contracting Party may prevent or delay prioritization on the basis of a fair and non-discriminatory application of its laws and regulations. and good faith in cases relating to:

a) bankruptcy, insolvency, or creditor protection;

b) issue, trade, or trade in securities, futures, options, or other derivative products;

c) crime or criminal offence, and recovery of proceeds of crime;

d) financial reporting or keeping records of transfers when necessary to assist law enforcement or financial regulators;

e) ensure compliance with administrative and judicial decisions and decisions;

f) taxation;

g) social security. public pension scheme, or compulsory savings scheme; and

h) employee severance pay.

4. Notwithstanding paragraphs 1 and 2, a Contracting Party may impose restrictions on the transfer of payments in connection with investments in the event of, or risk of, serious difficulties concerning the balance of payments. These restrictions must be fair, non-discriminatory and applied in good faith to reduce the negative impact on the free flow of money provided for in this Agreement.

Article 8. SUBROGATION

1. If a Contracting Party or an agency designated by that Contracting Party (“Paying Party”), make payment under a contract of payment or guarantee which that Party has undertaken in connection with the investment. on the territory of the other Contracting Party (“receiving State”).

a) The transfer to the Payer by law or by lawful transactions of all rights and claims arising from such investment:

b) The Paying Party's right to exercise all such rights and to secure the performance of such claims and to assume all obligations relating to the investment arising out of the licensure.

2. The payer shall, in all cases, enjoy the same treatment as the original investor with respect to:

a) Rights, claims acquired and obligations received by the Paying Party from the transfer under paragraph 1 above;

b) Compel any payments received under such rights and claims as originally obtained by the investor under the Agreement in respect of the investments concerned.

Article 9. SETTLEMENT OF DISPUTES BETWEEN A STATE AND INVESTORS

1. Any legal dispute directly arising out of an investment between one Contracting Party and an investor of the other Contracting Party in connection with an alleged breach of the investment-receiving Contracting Party's obligations under the Agreement for the management, operation, operation, sale or other disposition of this investor's investment, and has caused damage or loss to that investment which will, to the extent possible, card, resolved by conciliation through negotiation between the disputing parties.

2. If any of the above-mentioned disputes are not resolved within (6) six months from the date on which the dispute is notified in writing by the investor to that Contracting Party, the dispute may be submitted to arbitration or settled at

a) the competent court of the Contracting Party in which the investment is made in the territory of that Contracting Party; or

b) The International Center for Settlement of Investment Disputes (Center), established under the Washington Convention of 18 March 1965 to settle investment disputes between the state and its citizens other than suing that both Contracting Parties are parties to this Convention; or

c) additional facility of the Center if only one Contracting Party is a party to the Washington Convention; or

d) ad hoc arbitration, unless otherwise agreed by the disputing parties, established in accordance with the Rules of Arbitration of the United Nations Commission on International Commercial Law (UNCITRAL),

Once the investor has referred the dispute to any of the procedures set forth above, the choice of that procedure is final.

For greater certainty, the regulations on the treatment of the most favoured nation in this Agreement do not include a requirement that investors of the other Contracting Party undertake dispute settlement procedures other than those provided for in this Agreement.

3. The submission of a dispute to arbitration under the provisions of paragraph 2 must satisfy the condition that the submission is made within a period of (2) years from the time when the investor in the dispute became known, or have reason to be aware of a breach of an obligation under this Act and damage or loss caused to the investor or his investment.

4. The arbitral tribunal shall issue a decision in accordance with the provisions of the Agreement and the laws of the Contracting Party concerned in the dispute over the territory in which the investment is made (including the principles of conflict of law). legal conflicts), the conditions of investment-specific agreements and relevant principles of international law,

5. At any stage of the arbitral proceedings or the time frame for the enforcement of tonnage awards, no Contracting Party shall have the right to counterclaim in defense on the grounds that an investor of the Contracting Party, the other party in the dispute has received or will receive indemnity or other compensation for all or part of the loss under an insurance policy, payment guarantee or another indemnity.

6. Any decision of the tonnage rendered under the provisions of this Article is final and binding on the parties to the dispute, and shall be enforced in accordance with the national law of the Contracting Party in which the decision was made, in the territory of that Contracting Party.

Article 10. SETTLEMENT OF DISPUTES BETWEEN CONTRACTING PARTIES

1. To the extent possible, any dispute concerning the interpretation and application of this Agreement shall be settled through consultations or other diplomatic channels.

2. If the dispute is not resolved within six months from the date on which consultations or other diplomatic channels requested by each Contracting Party are launched and unless the Contracting Parties otherwise agree in writing, each Contracting Party may, through written notification to the other Contracting Party, refer the dispute to an ad hoc tonnage association in accordance with the following provisions of this Article.

3. The arbitral tribunal shall be constituted as follows: each Contracting Party shall appoint one member, and these two members shall agree on a national of a third country to act as Chairman of the arbitral tribunal so that the Parties appointment signing. These members shall be appointed within two months, and the Chairperson shall be appointed within one month, from the date on which either Contracting Party notifies the other Contracting Party in writing of its intention to submit the dispute to settlement, at the arbitral tribunal.

4. If the deadlines referred to in paragraph 3 are not observed, each Contracting Party may, in the absence of other agreement, invite the President of the United Nations International Court of Justice to make the necessary appointments set. If the President of the United Nations International Court of Justice is a national of a Contracting Party or is otherwise unable to exercise this function, the Vice-President of the United Nations International Court of Justice shall be invited to execute the directives. necessary determination. If the Vice-President of the United Nations International Court of Justice is a national of a Contracting Party or is otherwise prevented from performing this function, the next senior member of the United Nations International Court of Justice States which are not nationals of a Contracting Party shall be invited to make the necessary appointments.

5. The arbitral tribunal shall make its decision by majority vote. Such decision shall be in accordance with this Agreement and the recognized rules of international law concerned and be final and binding on both Contracting Parties, each of which shall bear the costs of the other Contracting Party. appointed by it in the arbitral tribunal, as well as the costs of its representation in the arbitration, the fees of the President as well as other costs in the tonnage proceedings, to be borne by each Contracting Party. together. However, the arbitral tribunal may decide that either Contracting Party shall bear the higher portion of the fee or the entire fee. For all other matters, the arbitral tribunal shall decide on its own procedure.

Article 11. APPLICATION OF OTHER PROVISIONS

If a Contracting Party's obligations under international agreements existing or later established between Contracting Parties other than this Agreement contain provisions, whether general or specific, for investment of investors of the other Contracting Party, treatment more favorable than that provided for in this Agreement, such provisions shall, to the extent more favorable to investors, prevail over This agreement.

Article 12. ENTRY INTO FORCE OF THE AGREEMENT

Each Contracting Party shall notify in writing the other Contracting Party of the completion of its legal requirements for the entry into force of this Agreement and this Agreement shall enter into force 30 days after the date of receipt of the final notification.

Article 13. DURATION AND TERMINATION

1. This Agreement shall remain in force for a period of ten (10) years, after which it shall continue in force, unless terminated pursuant to paragraph (2) of this Article.

2. Either Contracting Party may terminate this Agreement by giving written notice to the other Contracting Party one (1) year in advance at the end of the first ten (10) years or any other time later.

3. With respect to investments made or acquired prior to the date of termination of this Agreement, the provisions of all other provisions of this Agreement shall continue in force for a period of ten years. (10) years from the date of termination of this Agreement.

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

Done at Hanoi, October 22, 2009, in three originals in Vietnamese, Sinhala and English, all texts being equally authentic. In the event of any divergence in the application and interpretation of the provisions of this Agreement, the English text shall prevail.

For the Government of the Socialist Republic of Vietnam

Vo Hong Phuc

Minister of Development

For the Government of the Socialist Democratic Republic of Sri Lanka

Anura Priyadarshana Yapa

Ministry of Planning and Investment Enterprise and Investment Promotion