

# **Agreement between the Government of the People's Republic of China and the Government of the Republic of Yemen on the Promotion and Reciprocal Protection of Investments**

The Government of People's Republic of China and the Government of the Republic of Yemen (hereinafter referred to as "the Contracting Parties");

Willing to create favorable conditions for investors of one Contracting Party in the territory of the other Contracting Party;

Recognizing that the reciprocal encouragement, promotion and protection of such investments will be conducive to business dealings investors and contribute to the prosperity of both countries;

On the basis of equality and mutual benefit is willing to strengthen economic cooperation between the two countries;

Have agreed as follows:

## **Article 1. Definition**

Within this Agreement:

1. "Investment" means all assets and all shares directly or indirectly invested by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the other Contracting Party, in particular, but not limited to:

(1) Movable and immovable property and all other property rights such as mortgages and the right quality, in-kind guarantees, usufruct and similar rights;

(2) Shares, stocks and all other forms of participation in the enterprise;

(3) Claims and any other performance having an economic value of claims;

(4) Copyright, trademarks, patents, trade names and all other industrial property rights and proprietary technology and processes;

(5) The concession of public interest granted according to law, including the concession for exploration and development of natural resources.

Any change in the legal form of assets and capital that has been invested or reinvested does not affect the nature of the "investment" in the sense of this Agreement.

2. "Investor" means:

In the People's Republic of China:

(1) Natural persons who have the nationality of the People's Republic of China and invest in the territory of the Republic of Yemen;

(2) A legal person established in accordance with the laws of the People's Republic of China, having a domicile in the territory of the People's Republic of China and investing in the territory of the Republic of Yemen.

In the Republic of Yemen:

(1) Natural persons who have the nationality of the Republic of Yemen and invest in the territory of the People's Republic of China;

(2) A legal person established in accordance with the laws of the Republic of Yemen, having a domicile in the territory of the Republic of Yemen and investing in the territory of the People's Republic of China.

3. "Revenue" means the post-tax net amount generated by the investment, such as profits, dividends, royalties and other lawful income.

4. "Territory", means:

(1) In the case of the People's Republic of China, the territory as defined by the People's Republic of China in its laws and the areas in which the People's Republic of China has sovereign rights or jurisdiction under international law.

(2) In the Republic of Yemen, the territory of the Republic of Yemen, including those outside the territorial waters of the Republic of Yemen Republic of Yemen is legal under international law has been or is later determined to be regarded as the Republic of Yemen to exercise the relevant seabed and subsoil rights and natural resources within the area waters.

## **Article 2. Investment Promotion and Protection**

1. Each Contracting Party shall encourage investors of the other Contracting Party to invest in its territory and in accordance with its laws and regulations to accept the investment.

The expansion, alteration or transfer of investments in accordance with the effective laws and regulations of the host country shall be considered as investments.

2. Investments of investors of one Contracting Party in the territory of the other Contracting Party shall enjoy fair and equitable treatment, as well as full and complete protection and security, except for the measures necessary to maintain public order. Either Contracting Party shall undertake to ensure that unreasonable or discriminatory measures are not taken against the management, maintenance, use, enjoyment or transfer of the relevant investment in the territory of the other Contracting Party without prejudice to its domestic laws and regulations.

Investment income and proceeds reinvested in accordance with the laws of one of the Contracting Parties shall enjoy the same protection as the initial investment.

## **Article 3. Treatment of Investments**

1. Each Contracting Party shall ensure fair and equitable treatment of investments by the other Contracting Party in its territory, which shall be treated in accordance with its laws and regulations not less favourable than the treatment accorded to its domestic investors, or shall not be lower than that of the MFN investment treatment, if the latter is more favorable.

Each Contracting Party shall, in accordance with its laws and regulations, guarantee that the activities of the other Contracting Party in its territory relating to its investment shall not be treated less favourably than that given to its domestic investors or shall not be less favourable than that of MFN investors. The favorable treatment described above applies.

2. MFN treatment does not apply to a Contracting Party for participating in or participating in a free trade zone, an economic or customs union, a common market or any other form of regional economic organization, or in accordance with similar international agreements, or double taxation treaties or any other tax treaties giving preferential treatment to third country investors.

## **Article 4. Expropriation and Compensation**

1. The nationalization, expropriation or any other measures of the same effect or of the same nature (hereinafter referred to as "expropriation") that the authorities of one Contracting Party may take to invest in the investors of the other Contracting Party shall satisfy the following conditions:

(1) The public interest;

(2) In accordance with legal procedures;

(3) Not discriminatory;

(4) payment of compensation.

2. The compensation referred to in paragraph 4 of the first paragraph of this Article shall be equal to the market value of the investment immediately before the acquisition of the measure or its knowledge to the public.

3. The provisions for determining and paying compensation shall be made promptly and without delay. Compensation should be paid to the investor in a convertible currency and freely transferred.

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

Investors of one Contracting Party that have suffered losses in the territory of the other Contracting Party due to war, national emergency, riots, riots or other similar incidents, shall enjoy contracting no less than the MFN treatment that the other party gives to investors in terms of recovery, compensation, compensation or other compensation measures.

## **Article 6. Transfers**

1. Each Contracting Party shall, in accordance with its effective foreign exchange regulations, guarantee the net transfer of the net assets of the other Contracting Party's investors in its territory in a convertible currency, in particular:

(1) In order to maintain and increase the assets or supplementary funds of the investment;;

(2) Profits, dividends, interest, royalties and other current income;

(3) Repayment of the loan required for the investment;;

(4) All or part of the proceeds of liquidation of investment;

(5) Compensation for the implementation of Articles 4 and 5;

(6) Wages and other remuneration of a Contracting Party citizen who is permitted to work in the territory of the other Contracting Party as a result of the investment.

2. The transfer referred to in paragraph 1 shall be carried out in accordance with the exchange rate effective on the date of transfer.

3. The treatment provided for in this Article shall be at least equal to the treatment of MFN investors who are in similar circumstances.

## **Article 7. Subrogation**

1. If, in accordance with a statutory or agreed guarantee of non-commercial risk to the investor, the investor of one of the Contracting Parties is compensated, the other Contracting Party shall recognize the subrogation of the guarantor within the rights of the investor being compensated.

2. In accordance with the guarantee given to the relevant investment, the guarantor may enjoy all the rights that the investor should have exercised when the guarantor did not subrogate.

3. All disputes between the Contracting Party and the investment guarantor of the other Contracting Party shall be settled in accordance with the provisions of Article 9 of this Agreement when the guarantor is a public legal person and shall be settled in accordance with the provisions of Article 10 when the guarantor is a private legal person.

## **Article 8. Applicable Rules**

Investors of the other contracting party may apply preferentially when the issue of investment is governed by the provisions of this Agreement and by the domestic law of one of the Contracting Parties or by an international agreement existing or signed by both parties.

## **Article 9. Dispute Resolution of the Contracting Parties**

1. All disputes between the Contracting Parties concerning the interpretation or implementation of this Agreement shall as far as possible settled between the contracting parties through diplomatic channels.

2. If it cannot be resolved, the dispute shall be submitted to a mixed committee composed of representatives of both parties; the committee shall form the request of the most urgent party without hesitation.

3. If the Mixed Commission cannot resolve the dispute within six months from the date of commencement of the negotiations, the dispute shall be submitted to the arbitral tribunal at the request of one of the Contracting Parties.

4. The arbitral tribunal shall be established as follows: either Contracting Party shall appoint an arbitrator who shall jointly designate a third arbitrator as the chairman of the arbitral tribunal, which shall be a third country national. The arbitrator shall be appointed within three months and the chairman shall be appointed within five months from the date on which the contracting party informs the other contracting party to submit the dispute to the arbitral tribunal.

5. If the period determined in paragraph 4 above is not complied with, either Contracting Party shall request the President of the International Court of Justice to make the necessary assignment. If the President of the International Court of Justice is a national of a Contracting Party or is unable to perform this duty, the Vice-President of the International Court of Justice shall be requested to make the necessary assignment. If the Vice-President is a national of a Contracting Party or is unable to perform this duty, a senior judge of the International Court of Justice who is not a national of either Contracting Party shall be requested to make the necessary assignment.

6. The arbitral tribunal shall decide on the basis of the provisions of this Agreement and the rules and principles of international law. The arbitral tribunal decided by a majority of votes. The arbitral tribunal's ruling is final and binding on both parties.

## **Article 10. Settlement of Investment Disputes**

1. The dispute concerning investment between the Contracting Party and the investor of the other Contracting Party shall be resolved by friendly negotiation and negotiation between the parties to the dispute as far as possible.

2. If the dispute cannot be settled amicably by the parties to the dispute within six months from the date of the written resolution, the dispute shall be submitted at the investor's option:

(1) The court in which the contracting party of the investment has jurisdiction, or

(2) Arbitration of the International Center for Settlement of Investment Disputes under the Convention on Settlement of Investment Disputes between States and Other Nationals, which was opened for signature on March 18, 1965 in Washington.

For this purpose, either Contracting Party shall grant irrevocable consent to the arbitration proceedings referred to in these terms for the dispute concerning the amount of compensation. Other dispute submission procedures shall be subject to the consent of the parties.

3. A Contracting Party that is a party to a dispute shall not raise any objection at any stage of the arbitral proceedings or in the execution of an arbitral award because the investor who is the other party to the dispute may receive compensation for all or part of the loss based on the policy.

4. The arbitral tribunal shall decide on the domestic law of the Contracting Party accepting the investment as a party to the dispute, including the rules of the conflict of laws, the provisions of this Agreement, the provisions of the special agreement for the investment and the principles of international law.

5. The arbitral award is final and binding on both parties to the dispute. Either Contracting Party shall undertake to enforce the award in accordance with its domestic law.

## **Article 11. Application**

For the future application of this Agreement, it also includes investments by investors of one Contracting Party prior to its entry into force in foreign exchange in accordance with its laws and regulations in the territory of the other Contracting Party.

## **Article 12. Entry Into Force, Validity and Expiration**

1. This Agreement shall enter into force on the thirtieth day following the date of receipt of the notification of the last party to the proceedings required by the respective Contracting States.

This Agreement is valid for ten years. Unless either Contracting Party terminates this Agreement six months prior to the expiration of this Agreement, the validity of this Agreement will automatically be extended for a period of ten years, but either Contracting Party reserves the right to terminate this Agreement by written notice at least six months prior to the expiration of the period of validity.

2. Investments made prior to the date of the expiration of this Agreement shall continue to apply for a period of ten years

from the date of expiration.

Both governments duly authorized representatives have signed this Agreement each IN WITNESS WHEREOF.

Done in duplicate at Beijing this 16th day of February, 1998, in the Chinese and Arabic languages, both texts being equally authentic.

Representative on behalf of

Government of People's Republic of China

Liu Shan in

Representative on behalf of

Government of the Republic of Yemen

Ahmed Muhammad Sufan