

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF FINLAND AND THE GOVERNMENT OF THE STATE OF QATAR ON THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of Finland and the Government of the State of Qatar, hereinafter referred to as the "Contracting Parties",

Desiring to intensify economic cooperation to the mutual benefit of both countries and to maintain fair and equitable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party,

Recognising that the promotion and protection of investments on the basis of this Agreement will stimulate business initiatives,

Have Agreed as Follows:

Article 1. Definitions

For the purpose of this Agreement and unless stated otherwise in this Agreement the following words and terms shall have the following meanings:

1. The term "Investment" means every kind of asset established or acquired by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the latter Contracting Party including, in particular, though not exclusively:

a) movable and immovable property or any property rights such as mortgages, liens, pledges, leases, usufruct and similar rights as defined in the laws and regulations of the Contracting Party in whose territory the investment is situated;

b) shares, stocks, debentures or other form of participation in a company;

c) titles or claims to money or rights to performance having an economic value;

d) intellectual or industrial property rights, such as patents, copyrights, technical processes, trade marks, industrial designs, business names, know-how and goodwill; and

e) concessions conferred by law, by administrative act or under a contract by a competent authority, including concessions to search for, develop, extract or exploit natural resources.

Any alteration of the form in which assets are invested or reinvested does not affect their character as investments.

2. The term "Returns" means the amounts yielded by investments and in particular, though not exclusively, shall include profits, dividends, interest, royalties, capital gains or any payments in kind related to an investment.

3. The term "Investor" means:

a) in respect of the Republic of Finland:

i) any natural person who is a national of the Republic of Finland in accordance with its laws; or

ii) any legal person such as company, corporation, firm, business association, institution or other entity constituted in accordance with the laws and regulations of the Republic of Finland and having its seat within the jurisdiction of the Republic of Finland;

b) in respect of the State of Qatar:

i) any natural persons having the nationality of the State of Qatar in accordance with its laws and regulations; or

ii) any legal person having the status of a company, corporation, public or semi-public entity constituted in the territory of the State of Qatar in accordance with its legislation; or

iii) the Government of the State of Qatar.

4. The term "Territory" means the land territory, internal waters and territorial sea of the Contracting Party and the airspace above them, as well as the maritime zones including the continental shelf beyond the territorial sea over which the Contracting Party exercises sovereign rights or jurisdiction in accordance with its national law in force and international law, for the purpose of exploration and exploitation of the natural resources of such areas.

Article 2. Promotion and Protection of Investments

1. Each Contracting Party shall encourage and create favourable conditions in its territory for investments by investors of the other Contracting Party and in exercise of powers conferred by its laws shall admit such investments.

2. Each Contracting Party shall at all times accord in its territory to investments of investors of the other Contracting Party fair and equitable treatment and full and constant protection and security.

3. Each Contracting Party shall not impair by unreasonable, arbitrary or discriminatory measures the management, maintenance, use, enjoyment, acquisition or disposal of investments in its territory of investors of the other Contracting Party.

4. Each Contracting Party shall not impose mandatory measures on investments by investors of the other Contracting Party concerning purchase of materials, means of production, operation, transport, marketing of its products or similar orders having unreasonable or discriminatory effects.

5. Each Contracting Party shall, within the framework of its legislation, give a sympathetic consideration to applications for necessary permits in connection with the investments in its territory, including authorisations for engaging top managerial and technical personnel of their choice, regardless of nationality.

Article 3. Treatment of Investments

Within the framework of this Agreement:

a) investments made by investors of one Contracting Party in the territory of the other Contracting Party, or returns related thereto, shall be accorded treatment which is not less favourable than the host Party accords to the investments and returns made by its own investors or to investors of the most favoured nation, whichever is the more favourable to the investor, and

b) investors of one Contracting Party shall be accorded by the other Contracting Party, as regards the management, maintenance, use, enjoyment or disposal of their investments, treatment which is not less favourable than the latter Contracting Party accords to its own investors or to investors of the most favoured nation, whichever is the more favourable to the investor.

Article 4. Exceptions

The provisions of this Agreement shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege by virtue of:

a) any existing or future free trade area, customs union, common market or regional economic agreement to which one of the Contracting Parties is or may become a party,

b) any international agreement or any domestic legislation relating wholly or mainly to taxation, or

c) any multilateral convention or treaty related to investments, of which one of the Contracting Parties is or may become a party.

Article 5. Expropriation

1. Investments by investors of a Contracting Party in the territory of the other Contracting Party shall not be expropriated, nationalised or subjected to any other measures having effect equivalent to expropriation or nationalisation (hereinafter referred to as "expropriation") except for a public interest, on a non-discriminatory basis, under due process of law and

against prompt, adequate and effective compensation.

2. Such compensation shall amount to the fair market value of the expropriated investment at the time immediately before the expropriation was taken or became public knowledge, whichever earlier.

3. Such fair market value shall be expressed in a freely convertible currency on the basis of the market rate of exchange existing for that currency at the moment referred to in paragraph 2 of this Article. Compensation shall also include interest at the three (3) month London interbank Offered Rate (LIBOR) for the currency in question or an equivalent commercial rate established on a market basis from the date of expropriation until the date of actual payment.

4. The investor whose investments are expropriated, shall have the right to prompt review by a judicial or other competent authority of that Contracting Party of valuation of its investments in accordance with the principles set out in this Article.

Article 6. Compensation for Losses

1. Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, a state of national emergency, revolt, insurrection or riot in the territory of the latter Contracting Party, shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement no less favourable than that which the latter Contracting Party accords to its own investors or to investors of the most favoured nation, whichever is the more favourable to the investor. Resulting payments shall be effectively realisable, freely convertible and immediately transferable.

2. Without prejudice to paragraph 1 of this Article, an investor of one Contracting Party who, in any of the situations referred to in that paragraph, suffers a loss in the territory of the other Contracting Party resulting from:

- a) requisitioning of its investment or a part thereof by the latter's armed forces or authorities, or
- b) destruction of its investment or a part thereof by the latter's armed forces or authorities, which was not required by the necessity of situation, shall be accorded prompt, adequate and effective restitution or compensation.

Article 7. Free Transfer

1. Each Contracting Party shall ensure to investors of the other Contracting Party the free transfer, into and out of its territory, of their investments. Such transfers shall include in particular, though not exclusively:

- a) the principal and additional amounts to maintain, develop or increase the investment;
- b) returns;
- c) proceeds obtained from the total or partial sale or liquidation of an investment;
- d) the amounts required for payment of expenses which arise from the operation of the investment, such as loan repayments, payment of royalties and licence fees or other similar expenses;
- e) compensation payable pursuant to Articles 5 and 6;
- f) payments in respect of management fees;
- g) payments arising out of the settlement of a dispute;
- h) payments in connection with contracting projects;
- i) unspent earnings and other remuneration of personnel in connection with an investment.

2. The Contracting Parties shall further ensure that transfers referred to in paragraph 1 of this Article shall be made without any restriction or delay, in a freely convertible currency and at the prevailing market rate of exchange applicable on the date of transfer with respect to spot transactions in the currency to be transferred.

Article 8. Subrogation

If a Contracting Party or its designated agency makes a payment to its investor under an indemnity given 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 former Contracting Party under Article 9, recognise the assignment to the former Contracting Party or its designated agency of all rights and claims of the investor which that Contracting Party or its designated agency shall be entitled to

exercise by virtue of subrogation to the same extent as the Party indemnified.

Article 9. Settlement of Disputes between an Investor of One Contracting Party and the other Contracting Party

1. Any legal dispute arising directly out of an investment between an investor of one Contracting Party and the other Contracting Party shall be settled amicably between the two parties concerned.

2. If a dispute cannot be settled within a period of three months from the date at which settlement was requested in writing, the investor concerned may submit the dispute for settlement as follows, either to;

a) the competent court of the Contracting Party in the territory of which the investment has been made, or

b) the International Centre for Settlement of Investment Disputes (ICSID) provided for by the Convention on the Settlement of Investment Disputes between States and Nationals of other states, opened for signature at Washington on March 18, 1965, if its rules are applicable or if not, to the rules of the Additional Facility of the ICSID, or

c) an ad hoc Arbitral tribunal.

If the dispute is submitted to the competent court of the Contracting Party in accordance with paragraph 2 a) of this Article, the investor cannot seek international arbitration.

If the dispute is filed for international arbitration in accordance with paragraph 2 b) of this Article, the award shall be binding and shall not be subject to any appeal or remedy other than those provided for in the said Convention. The award shall be enforced in accordance with national law.

3. The ad hoc Arbitral tribunal specified under paragraph 2 c) shall be established as follows:

a) Each party to the dispute shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint by mutual Agreement a third arbitrator, who must be a citizen of a third country, and who shall be designated as Chairman of the Tribunal by the two parties.

All the arbitrators must be appointed within two months from the date of notification by one party to the other party of its intention to submit the dispute to arbitration.

b) If the periods specified in the section a) of this paragraph have not been respected, either party to the dispute, in the absence of any other agreement, may invite the Secretary General of the Permanent Court of Arbitration at the Hague to make the necessary appointments.

c) The Tribunal shall reach its decisions by a majority of votes. These decisions shall be final and legally binding upon the parties and shall be enforced in accordance with national law. They shall be taken in conformity with the provisions of this Agreement, the related principles of international law and the laws of the Contracting Party to the dispute.

d) The Tribunal shall set its rules of procedure in conformity with the Arbitration Rules of the United Nations Commission for International Trade Law (UNCITRAL).

e) It shall interpret its award at the request of either party to the dispute. Unless otherwise agreed by the parties to the dispute, the venue of arbitration is the seat of the Permanent Court of Arbitration at the Hague (Netherlands).

4. The Contracting Party which is a party to the dispute shall, at no time whatsoever during the procedures involving investment disputes, assert as a defence its immunity or the fact that the investor has received compensation under an insurance contract covering the whole or part of the incurred damage or loss.

Article 10. Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation and application of this Agreement shall, as far as possible, be settled through diplomatic channels.

2. If the dispute cannot thus be settled within six (6) months, following the date on which such negotiations were requested by either Contracting Party, it shall at the request of either Contracting Party be submitted to an Arbitral Tribunal.

3. Such an Arbitral Tribunal shall be constituted for each individual case in the following way. Within two (2) months of the receipt of the request for arbitration, each Contracting Party shall appoint one member of the Tribunal. Those two members shall then select a national of a third State who on approval by the two Contracting Parties shall be appointed Chairman of

the Tribunal. The Chairman shall be appointed within four (4) months from the date of appointment of the other two members.

4. If within the periods specified in paragraph 3 of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make any necessary appointments. If the President is a national of either Contracting Party or is otherwise prevented from discharging the said function, the Member of the International Court of Justice next in seniority who is not a national of either Contracting Party or is not otherwise prevented from discharging the said function, shall be invited to make the necessary appointments.

5. The Arbitral Tribunal shall reach its decision by a majority of votes. The decisions of the Tribunal shall be final and binding on both Contracting Parties. They shall be taken in conformity with the provisions of this Agreement and the related principles of international law. Each Contracting Party shall bear the costs of the member appointed by that Contracting Party and of its representation at the arbitral proceedings. Both Contracting Parties shall assume an equal share of the cost of the Chairman, as well as any other costs. The Tribunal may make a different decision regarding the sharing of the costs. In all other respects, the Arbitral Tribunal shall determine its own rules of procedure.

6. The Tribunal shall interpret its award at the request of either Contracting Party. The venue of Arbitration is the Seat of the Permanent Court of Arbitration at the Hague (Netherlands).

Article 11. Application of other Rules

If the provisions of law of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to this Agreement contain a regulation, whether general or specific, entitling investments made by investors of the other Contracting Party to a treatment more favourable than is provided for by this Agreement, such provisions shall, to the extent that they are more favourable to the investor, prevail over this Agreement.

Article 12. Application of the Agreement

This Agreement shall apply to all investments made by investors of either Contracting Party in the territory of the other Contracting Party, whether made before or after the entry into force of this Agreement, but shall not apply to any dispute concerning an investment which arose or any claim, which was settled before its entry into force.

Article 13. Entry Into Force, Duration and Termination

1. The Contracting Parties shall notify each other when their constitutional requirements for the entry into force of this Agreement have been fulfilled. The Agreement shall enter into force on the thirtieth day following the date of receipt of the last notification.

2. This Agreement shall remain in force for a period of twenty (20) years and shall thereafter remain in force on the same terms until either Contracting Party notifies the other in writing of its intention to terminate the Agreement in twelve (12) months.

3. In respect of any investment made prior to the date of termination of this Agreement the provisions of Articles 1 to 12 shall remain in force for a further period of twenty (20) years from the date of termination of this Agreement.

In Witness Whereof, the undersigned representatives, duly authorised thereto, have signed the present Agreement.

Signed in duplicate at Doha on the 12th of November 2001 in the Finnish, Arabic and English languages, all texts being equally authoritative. In case of divergence, the English text shall prevail.

For the Government of the Republic of Finland

For the Government of the State of Qatar