Agreement between the United Arab Emirates and the Republic of South Sudan Regarding Foreign Investments

The United Arab Emirates and the Republic of South Sudan (hereinafter collectively referred to as the "Contracting Parties" and individually as "the Contracting Party");

In order to encourage the flow of mutual investments with the aim of strengthening and intensifying economic cooperation between the Contracting Parties;

Recognizing that the mutual promotion and protection of foreign investments carried out in accordance with the law will stimulate private initiative and increase prosperity for both Contracting Parties;

Recognizing that these goals can be achieved without compromising health, safety, and environmental measures, or the measures necessary to preserve and protect public morals;

Convinced that the promotion and protection of foreign investment requires the cooperation of both Contracting Parties;

Recognizing the rights of the Contracting Parties to regulate in their respective territories with the aim of fulfilling national policy objectives;

Recognizing that this Agreement shall be implemented only after the establishment of foreign investments, which are subject to the laws and regulations of the Contracting Party, where the investment is carried out;

Have agreed as follows:

Section A. Definitions and Scope of Application

Article 1. Definitions

For the purposes of this Agreement:

1. The term "company" means any entity established or incorporated under the laws and regulations of a Contracting Party, including corporations, securities companies, partnerships, limited liability companies, or joint ventures;

2. The term "Investor" means, with respect to either of the Contracting Parties:

(a) a natural person who is a national of that contracting party in accordance withthe laws and regulations of that Contracting Party, who is making an investment in the territory of the other Contracting Party, and who is not a national of the other Contracting Party;

(b) a legal entity established or incorporated under the laws and regulations of that Contracting Party, whether privately owned, government-owned, or government-controlled, that engages in substantial and genuine commercial activities in the territory that Contracting Party, which is investing in the territory of the other Contracting Party;

(c) A legal entity established or incorporated under the laws and regulations of either of thecontracting parties and which is owned or controlled by natural persons from one of the a Contracting Party, as defined in paragraph (a), by a Contracting Party or a legal entity, as defined in paragraph (b), that is making an investment in the territory of the other Contracting Party; or

(d) either Contracting Party, that makes an investment in the territory of the other Contracting Party.

3. The term "investment" means any of the following types of assets owned or controlled, directly or indirectly, by an investor from one of the contracting parties in the territory of the and who (1) has carried out its investment in accordance with the laws and regulations of that contracting party and (2) possessed the characteristics of an investment, such as a contribution in capital or other resources over a specific period, the expectation of profit or gain, and the

assumption of operational risks, an investment may take the following forms:

(a) a company or a branch of a company;

(b) shares, shares, and other forms of participation in the capital of companies, includingrights derived therefrom, and any bonds, maturity of bonds, or derivatives linked to the foregoing;

(c) loans to a company, corporate bonds, corporate debt securities, or other debt instruments, and any bonds, maturity of such securities, or derivatives linked to the foregoing;

(d) loans to, or debt instruments issued by, a contracting party, its subsidiaries, its institutions or agencies, and any bonds, bond maturities, or derivatives related to the foregoing;

(e) Any other movable or immovable property acquired for the purpose of developing a commercial activity of an investor in the territory of the other Contracting Party;

(f) intellectual property rights, including copyrights and related rights, industrial property rights, trademarks, patents, Industrial designs and technical processes, plant variety rights, knowledge, trade secrets, and trademarks registered under the laws of a Contracting Party; and

(g) rights to engage in economic activities granted under a law, an administrative regulation, or a contract, including turnkey, construction, management, production, or profit-sharing contracts; however, it does not include concessions for the exploration, explore, or exploit natural resources granted by theUnited Arab Emirates or any of its constituent parts.

4. For the avoidance of doubt, the term “investment” shall not include financial claims other than those arising from theinvestment; specifically, the term “investment” shall not include:

(a) a loan to a company not related to the investor’s investment, or

(b) monetary claims arising solely from the extension of creditin connection with a commercial transaction, such as trade financing.

5. Any change in the form of investment or reinvestment of the aforementioned assets willwill not affect their status as an investment, provided that suchsubject to change in accordance with the laws and regulations of the contracting party carrying outin the territory where the investment is made.

6. The term “ICSID” means the International Centre for Settlement of Investment Disputes, established under the ICSID Convention

7. The term “Agreement” "ICSID" means the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, signed on March 18, 1965;

8. The term “entity” means any entity owned or controlled by a Contracting Party that exercises parts of the governmental authority;

9. The term “measure” means any law, rule, regulation, practice, policy, or decision of a contracting party, its subordinate divisions, or its instruments;

10. The term “non-disputing Contracting Party” means a Contracting Party that is not a party to a dispute between an investor and a State;

11. The term “proceeds” means all amounts resulting from or derived from theinvestment or reinvestment, including dividends, dividends and capital gains, royalties, interest, payments relating to intellectual property rights, and paid or to be paid in any type of currency, including digital currency or in kind; for the avoidance of doubt, “returns on investments,” reinvestment, and any proceeds from liquidation enjoy the same protection as the investment.

12. The term “territory” means:

(a) With regard to the Republic of South Sudan,

(a) all the land and airspace comprising the three southern states — Ghazal, Equatoria, and Upper Nile — within their boundaries as defined on January 1, 1956; and

(b) the Abyei Area, the nine Ngok Dinka sultanates transferred from theof Bahr al-Ghazal to the Kordofan region in 1905, as defined by the “Abi Arbitration Court Decision” of July 2009, in the event that a final ruling is issued for the Abyei regionto become part of the Republic of South Sudan.

(b) The term “United Arab Emirates” , when used in its geographical sense, refers to the territory of the United Arab Emirates under its sovereignty, including the area beyondterritorial waters, airspace, and maritime zones, which have been over which the United Arab Emirates has established sovereign rights andjurisdiction over activities in its waters and the seabed, and the subsoil related to the exploration or exploitation of natural resourcesin accordance with our laws and international law.

13. The term “UNCITRAL Arbitration Rules” "UNCITRAL" refers to the Arbitration Rules of the United Nations Commission on International Trade Law.

Article 2. Scope of Application

1. This Agreement applies to investments made before orits entry into force by investors from either Partyin the territory of the other Contracting Party in accordance with itsand regulations.

2. This Agreement shall not apply to claims arising from events that occurred and were settled prior to its entry into force.

3. For the avoidance of doubt, the substantive obligations set forth in Section (b) shall apply only after the investment has been established in accordance with the laws and regulations of theof the contracting party in whose territory the investment is carried out.

4. For the avoidance of doubt, the substantive obligations set forth in Section (b) are those of the Contracting Party that implements the concessionand its subdivisions or agencies in the exercise of their.

5. In the case of the United Arab Emirates, natural resources are not covered by this Agreement, and nothing in this Agreement creates rights or imposes obligations on the United Arab Emirates with respect to any substance found in or provided by nature, or a benefit to the environment, that has actual or future economic value, belonging to, are managed by, or are otherwise controlled by, any Contracting Party.

6. This Agreement applies only to measures adopted after its entry into force.

7. Each contracting party shall comply with any obligations it assumes in connection with the investment.

Article 3. Denial and Restriction of Benefits

1. A Contracting Party may deny the benefits of this Agreement to an investor of a Contracting Party and to the investments of such investor if the investor is owned or controlled by legal or natural persons of a third party with which the denying Contracting Party does not maintain diplomatic relations, or with respect to whom the denying Contracting Party adopts or maintains restrictive measures that would be violated or circumvented if the benefits of this Agreement were granted to the investor or the investments.

2. Notwithstanding any other provisions of this Agreement, the benefits of this Agreement shall not be available to an investor from a Contracting Party and the investor’s investments if:

(a) the investor is owned or controlled by persons who are legal or natural persons of the Contracting Party where the investment is carried out;

(b) the investor has obtained the nationality of a Contracting Party for the purpose of obtaining the benefits of this Agreement, which would not be available to him otherwise.

Section B. Substantive Obligations Regarding the Investments of Investors of the other Contracting Party

Article 4. Encouragement of Foreign Investment

Each Contracting Party shall use reasonable efforts to improve the climate for foreign investment in its territory, taking into account its laws and regulations.

Article 5. Minimum Standards of Treatment

1. Each Contracting Party shall accord to investments of investors of the other Contracting Party fair and equitable treatment, as well as full protection and security, in accordance with paragraphs 2 and 3.

2. A Contracting Party breaches the obligation to provide fair and equitable treatment set out in paragraph 1 only if it adopts measures or a series of measures that constitute:

(a) a denial of justice, including a fundamental breach of due process in criminal, civil, or administrative proceedings;

(b) manifest arbitrary conduct;

(c) harassment, coercion, or similar conduct in bad faith; and/or

(d) targeted discrimination based on nationality.

3. A Contracting Party breaches the obligation to provide full protection and security set out in paragraph (1) only if it fails to exercise due diligence in protecting the physical security of investments of investors of the other Contracting Party.

Article 6. National Treatment

1. Subject to its laws and regulations, each Contracting Party shall, within its territory, grant investors of theor their investments treatment no less favorable than that which it would grant, under similar circumstances, to an investor ortheir investments with respect to management, administration, operation, utilization, and sale, or any other disposition of their investments in their territory.

2. For the avoidance of doubt, there are no similar circumstances and there is no violation of paragraph 1 of aby a contracting party to investors from thethe other contracting party or their investments, where such transactionsare reasonably based on a consistent policyof that contracting party or relating to different sectors of trade.

Article 7. Most-Favored-Nation Treatment

1. Subject to its laws and regulations, each Contracting Party shall accord, in its territory, to investors of the other Contracting Party or their investments treatment no less favorable than that which it accords, in similar circumstances, to investors of third countries or their investments with regard to the management, conduct, operation, use, and sale or any other disposition of their investments in its territory.

2. For the avoidance of doubt, similar circumstances do not exist, and there is no violation of Paragraph 1 regarding differential treatment by a Contracting Party of investors from the other Contracting Party or their investments, where such differential treatment is reasonably based on a rational policy of that Contracting Party or relates to different business sectors.

3. For the avoidance of doubt, the "treatment" referred to in paragraphs 1 and 2 does not oblige either Contracting Party to accord to investors of the other Contracting Party and their investments the benefits of any treatment, preference, or privilege granted by that Contracting Party by virtue of:

(a) any existing or future regional economic integration organization, free trade area, customs union, or similar integration arrangement;

(b) any rights or obligations of a Contracting Party arising from an existing or future agreement, including, without limitation, agreements relating to investment or taxation.

Article 8. Prohibition of Performance Requirements

1. Neither Contracting Party shall impose or enforce any performance requirements on investors of the other Contracting Party regarding the management, conduct, or operation of their investments within the territory of that Contracting Party; in particular, neither Contracting Party shall impose or enforce requirements:

(a) to export a given level or percentage of a good or service;

(b) to achieve a given level or percentage of domestic content;

(c) to purchase, use, or accord a preference to a good produced or a service provided in its territory, or to purchase a good or service from a person in its territory;

(d) to relate the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with the investment;

(e) to restrict sales of goods or services produced or provided by the investment in its territory by relating such sales to the

volume or value of its exports or foreign exchange earnings; or

(f) to transfer technology, a production process, or other proprietary knowledge to a person in its territory.

Article 9. Expropriation

1. Neither Contracting Party shall expropriate or nationalize investments in ...its territory belonging to an investor of the other Contracting Party, or take any measures equivalent to expropriation or nationalization (hereinafter referred to as "expropriation"), except:

(a) for a public purpose;

(b) on a non-discriminatory basis;

(c) against prompt, fair, and effective compensation in accordance with paragraphs 2, 3, and 4 below;

(d) in accordance with due process of law.

2. Compensation shall be equal to the fair market value of the expropriated investment at the time the expropriation was announced or when the expropriation occurred, whichever occurred first. The fair market value shall not reflect any change in value resulting from the announcement of the expropriation.

3. Compensation shall be paid without delay and shall include interest at a reasonable commercial rate, accruing from the date of expropriation until the time of payment. Such compensation shall be freely realizable and transferable. Compensation shall be paid in a currency freely convertible into the currency of that Contracting Party or the investor concerned.

4. Without prejudice to the provisions of Article (17), an investor whose investment is subject to expropriation shall have the right of access to the judicial or administrative courts or agencies of the Contracting Party in whose territory the investment was made, for the purpose of a prompt review of such expropriation and the amount of compensation, in accordance with the principles set forth in this Article.

5. Notwithstanding the provisions of paragraphs 3 and 4 of this Article, government assets and investments of a Contracting Party shall not be subject to direct or indirect expropriation or nationalization.

Article 10. Transfers

1. Each Contracting Party shall permit all transfers related to an investment by an investor of the other Contracting Party, made in accordance with its laws and regulations, into and out of its territory without undue delay.

2. Transfers shall be made in a freely convertible currency at the prevailing market exchange rate on the date of transfer, and in accordance with the laws and regulations in force in the Contracting Party in whose territory the investments are carried out.

3. Such transfers include, in particular but not exclusively:

(a) initial capital and additional amounts to maintain or expand the investment;

(b) profits, gains, capital gains, dividends, royalties, interest, management fees, and other income or returns derived from an investment;

(c) proceeds from the total or partial liquidation of the investment;

(d) amounts required to meet expenses and payments under a contract concluded by the investor or the covered investments (such as loan repayments);

(e) amounts resulting from compensation for expropriation or losses pursuant to Articles 9 and 11 of this Agreement; and

(f) unspent income and other remuneration of personnel from abroad in relation to an investment.

4. Notwithstanding the foregoing, or without prejudice to any obligations incumbent upon the Contracting Parties under other agreements—including the Articles of Agreement of the International Monetary Fund adopted on July 22, 1944, as amended—a Contracting Party may, permanently or temporarily depending on the circumstances, prevent transfers through the equitable, non-discriminatory, and good-faith application of its laws and regulations regarding:

(a) bankruptcy, insolvency, or the protection of creditors' rights;

(b) the issuance, trading, or dealing in securities;

(c) criminal or administrative offenses;

(d) reports on currency transfers or other monetary instruments; or

(e) ensuring the enforcement of provisions in legal proceedings.

Article 11. Compensation for Losses

When investments of investors of either Contracting Party suffer damage or losses due to war or other armed conflict, civil unrest, a state of national emergency, or similar events in the territory of the other Contracting Party, they shall be accorded by the latter Contracting Party—with respect to restitution, indemnification, or other compensation—treatment no less favorable than that accorded by the latter Contracting Party to its own investors or to investors of any third party.

Article 12. Exceptions for Certain Measures and Reservations

1. Section (B) of this Article shall not apply to:

(a) any taxation measures, except for Article 9, which applies to taxation measures;

(b) any measure adopted by a Contracting Party to protect its essential security interests or public order; and

(c) any measures adopted in the event of severe risks on the financial system and balance of payments of a Contracting Party, or other exchange rate difficulties.

2. Articles (6 – National Treatment), (7 – Most-Favored-Nation Treatment), and (8 – Prohibition of Performance Requirements) shall not apply to:

(a) any existing non-conforming measure adopted by a Contracting Party, or the renewal, continuation, or amendment of such non-conforming measures, provided that the amendment does not decrease the measure's level of conformity with the aforementioned Articles as it existed immediately prior to the amendment;

(b) any measure adopted or maintained by a Contracting Party regarding sectors, sub-sectors, or activities, in accordance with the procedures set forth in Annex 1;

(c) any procurement process, including any measure undertaken in relation thereto; or

(d) subsidies, grants, or other forms of government assistance provided by a Contracting Party, including government-backed loans to companies and other federal or local entities.

Section C. Investor-State Dispute Settlement

Article 13. Scope of Application of Section C

1. Section C applies to any dispute between an investor of one Contracting Party and the other Contracting Party concerning an investment in the territory of the latter Contracting Party, arising from an alleged breach by that Contracting Party of an obligation under Section B of this Agreement (an investor-state dispute).

2. No claim may be submitted by an investor of a Contracting Party against the other Contracting Party for the settlement of an investor-state dispute if more than three (3) years have elapsed since the date on which the investor first acquired, or should have acquired, knowledge of:

(1) the alleged breach of an obligation under Section B; and

(2) the fact that the investor has incurred loss or damage.

Article 14. Mandatory Negotiation Requirement

1. Any dispute arising between the investor and the State shall be subject to negotiations between the parties to said dispute.

2. The parties to the investor-State dispute shall negotiate and attempt to settle the dispute amicably within one hundred and twenty (120) days—commencing upon the investor's delivery of a notice of intent to submit the investor-State dispute to arbitration pursuant to Article 17—or within such other period as agreed upon by the parties (hereinafter referred to as the "Notice of Intent").

3. The Notice of Intent to submit the investor-State dispute to arbitration pursuant to Article 17 shall specify:

(a) the name and address of the investor;

(b) the provisions of this Agreement alleged to have been breached;

(c) the factual basis for the investor-State dispute, including the measures at issue;

(d) the relief sought, including the approximate amount of damages claimed.

4. The Notice of Intent shall be delivered to the competent authority of the Contracting Party designated in Annex 2 of this Agreement.

Article 15. Mediation and Conciliation

1. In lieu of, or in addition to, the mandatory negotiation requirement, the parties to the investor-State dispute may agree to mediation and conciliation, without prejudice to their rights, claims, and defenses under this Agreement.

2. The parties to the investor-State dispute shall agree on the rules applicable to (1) the mediation and conciliation of the dispute and (2) the method of appointing the mediator or conciliator.

Article 16. Preconditions for Submitting the Dispute to Arbitration

The investor-State dispute may be submitted to arbitration pursuant to Article 17 below, only after the following preconditions have been met:

(a) the investor—a party to the investor-state dispute—has agreed in writing to arbitration in accordance with Article 17 below;

(b) the lapse of one hundred and twenty (120) days—or any other period agreed upon by the parties in accordance with Article 14(2)—from the date the Contracting Party concerned received the notice of intent, without the dispute having been settled amicably;

(c) the absence of any pending mediation or conciliation proceedings between the parties to the investor-state dispute;

(d) the investor has not submitted a claim for monetary relief regarding any of the measures alleged to be in breach of this Agreement;

(e) the investor has waived in writing the right to initiate any other proceedings regarding any of the measures alleged to be in breach of this Agreement—except for proceedings seeking provisional or conservatory measures that do not claim monetary compensation—provided that such waiver shall cease to apply if the arbitral tribunal or local court to which the investor-state dispute was submitted under Article 17 has dismissed the dispute for lack of jurisdiction or inadmissibility via a final and binding decision; and

(f) the requirements of Article 19 regarding consolidation have been complied with, where applicable.

Article 17. Submission of the Dispute to an Arbitral Tribunal or Local Courts

1. Subject to the fulfillment of the preconditions set forth in Article 16, the investor-state dispute may be submitted by either party to the competent local courts of the Contracting Party in whose territory the investments were made, or to arbitration under:

(a) the ICSID Convention, if both parties are signatories to the ICSID Convention;

(b) the ICSID Additional Facility Rules, if only one of the Contracting Parties is a signatory to the ICSID Convention;

(c) the UNCITRAL Arbitration Rules, as applicable on the date of signing this Agreement, unless the parties to the investor-State dispute agree otherwise; and

(d) any other arbitration rules agreed upon by the parties to the investor-State dispute.

2. Any legal person constituted, established, or otherwise duly organized under the laws and regulations of one Contracting Party, which—prior to the emergence of a dispute—is effectively controlled by investors of the other Contracting Party, shall, for the purposes of Article 25(2)(b) of the ICSID Convention, be treated as a "national of the other Contracting Party" and, for the purposes of Article 1(6) of the ICSID Additional Facility Rules, be treated as a "national of another State."

3. Both Contracting Parties agree to submit the investor-State dispute to arbitration as provided herein, following the fulfillment of the preconditions set forth in Article 16. The consent granted satisfies the requirements of:

(a) the ICSID Additional Facility Rules regarding the written consent of the disputing parties; and

(b) Chapter II of the ICSID Additional Facility Rules;

(c) Article II(1) of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention).

Article 18. Other Proceedings

1. If other dispute settlement proceedings are initiated by an entity or individual related to the investor party to the investor-state dispute regarding any measures alleged to breach this Agreement, and if such other proceedings are pending on the date arbitration proceedings commence pursuant to Article 17 above, the arbitral tribunal established under Article 17 shall suspend the arbitration proceedings until the conclusion of such other proceedings.

2. Upon the conclusion of such other proceedings initiated by the entity or individual related to the investor party to the investor-state dispute, the arbitral tribunal established under Article 17 shall resume the arbitration proceedings, taking into account the outcome of such other proceedings to avoid conflicting decisions, and with the aim of ensuring a fair and effective resolution of the investor-state dispute, particularly to avoid double recovery.

Article 19. Consolidation

1. If two or more investors from a single Contracting Party wish to submit their investor-state disputes to a single arbitral tribunal established under Article 17, they must first obtain the written consent of the other Contracting Party to the consolidation of such investor-state disputes—unless such investor-state disputes have previously been subject to a consolidation order—or if the Contracting Party fails to respond to such a request within sixty (60) days from the date of receipt of such request by the competent authority specified in Annex II to this Agreement shall be deemed to constitute consent by the Contracting Party to the consolidation of the investor-State disputes covered by such request.

2. Where notices of intent regarding investor-State disputes have been served by two or more investors, or where investor-State disputes have been separately submitted to arbitration under Article 17 by two or more investors, and such disputes relate to one or more measures alleged to be in breach of this Agreement, the Contracting Party involved in the investor-State disputes may seek to consolidate the arbitration proceedings (a "consolidation request") after serving notice to the investors who are parties to the consolidation request.

3. Upon a consolidation request made by a Contracting Party involved in investor-State disputes—which shall be made, if possible, within sixty (60) days from the date of constitution of the arbitral tribunal for such disputes, and in any event prior to any ruling or decision by such arbitral tribunal—the Secretary-General of ICSID shall appoint a "Consolidation Authority" from the ICSID Panel of Arbitrators.

4 – Within one hundred and twenty (120) days from the date of its appointment, and after receiving written submissions regarding the consolidation request from all parties covered by said request, the Consolidation Authority shall issue a consolidation order if: (1) the investor-State disputes in question relate to any or all of the measures alleged to be in breach of this Agreement; and (2) it determines that consolidating such disputes between these investors and the State is likely to facilitate efforts to reach a fair and effective settlement of investor-state disputes.

5. Upon the issuance of a "consolidation order," the jurisdiction of an arbitral tribunal established under Article 17 of this Agreement—which is seized of an investor-state dispute subject to the consolidation order—to adjudicate that dispute shall terminate.

6. Investors who are parties to an arbitration subject to a consolidation order may, if they so agree, submit their investor-state disputes to a single arbitral tribunal established under Article 17 of this Agreement.

Article 20. Subrogation

1. If either Contracting Party or an agency designated by it (hereinafter referred to as the "Guarantor") makes a payment under an insurance contract regarding non-commercial risks for an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognize:

(a) the subrogation of the Guarantor—by operation of law or applicable legal transaction—to such right or claim; or

(b) the right of the Guarantor to exercise such rights and enforce such claims by virtue of subrogation to the same extent as the indemnified party, and to assume the obligations related to the investment.

2. The Guarantor shall be entitled in all circumstances to:

(a) the same treatment regarding the rights, claims, and obligations acquired by virtue of subrogation; and

(b) any amounts received pursuant to such rights and claims that the indemnified party was entitled to receive under this Agreement regarding the investment concerned.

3. The rights or claims transferred shall not exceed in scope or amount the original rights or claims of the investor.

4. Notwithstanding the provisions of Paragraph 1 of this Article, the substitution shall become effective for the Contracting Party only upon the approval of the competent authority of that Contracting Party, as designated in Annex 2 to this Agreement.

Article 21. Dismissal of the Claim

1. In an investor-State dispute, the Contracting Party may—no later than sixty (60) days after the constitution of the arbitral tribunal pursuant to Article 17 of this Agreement, and in any event before the arbitral tribunal issues any preliminary ruling—submit a request to dismiss a claim on the grounds that the claim is manifestly outside the jurisdiction of the arbitral tribunal, or is manifestly inadmissible or legally unfounded.

2. The arbitral tribunal shall grant the parties to the investor-State dispute an opportunity to submit their written observations regarding the request.

3. If the arbitral tribunal determines that the claim is manifestly outside its jurisdiction, or is manifestly inadmissible or legally unfounded, it shall issue a ruling to that effect.

4. The decision of the arbitral tribunal shall be issued without prejudice to the right of the Contracting Party to the investor-State dispute to object to a claim during the course of the arbitral proceedings on the grounds that the claim falls outside the jurisdiction of the arbitral tribunal, or is inadmissible or legally unfounded.

5. If the arbitral tribunal dismisses an investor's claim on the grounds that it is manifestly outside the tribunal's jurisdiction, inadmissible, or legally unfounded, the tribunal shall issue an award in favor of the Contracting Party involved in the investor-State dispute, covering all costs and fees incurred in the arbitration proceedings—including those related to legal representation and assistance—unless the tribunal finds such costs and fees to be manifestly unreasonable.

Article 22. Preliminary Issues

In principle, the arbitral tribunal established pursuant to Article 17 of this Agreement shall decide on any objection to the tribunal's jurisdiction as a preliminary matter, by means of an arbitral award.

Article 23. Applicable Law

1. The arbitral tribunal established pursuant to Article 17 of this Agreement to hear a dispute between an investor and a State shall determine the issues in dispute in accordance with this Agreement, the general principles and rules of international law, and the domestic law of the Contracting Party in whose territory the investment was made.

2. A joint interpretation of this Agreement, agreed upon by the Contracting Parties and received in a timely manner in accordance with Article 27 below, shall be binding upon the arbitral tribunal.

Article 24. Confidentiality of Proceedings

1. The parties, arbitrators, any assistants, and persons participating in the administration of arbitration proceedings

conducted pursuant to Section (C) of this Agreement shall maintain confidentiality regarding the conduct of the arbitration proceedings—particularly regarding correspondence, requests submitted or exchanged, witness or expert testimony, and any other information or evidence submitted or exchanged that is otherwise not in the public domain. Likewise, persons acting on behalf of any party or participant in the arbitration proceedings are bound to maintain confidentiality. The foregoing is without prejudice to the right of the ICSID Secretariat, when necessary, to publish excerpts of legal arguments or other information regarding the arbitration proceedings, and is also without prejudice to any obligation to disclose pursuant to a legal duty, to protect or pursue a legal right, or to enforce or challenge an award in legal proceedings.

2. Hearings before an arbitral tribunal established pursuant to Article 17 shall not be open to the public unless both or all parties to the investor-state dispute agree otherwise.

Article 25. Ethical Obligations of Arbitral Tribunal Members and Their Assistants

1. Without prejudice to any other obligation incumbent upon members of an arbitral tribunal established pursuant to Article 17 of this Agreement, or their assistants, under the rules applicable to the arbitration, arbitrators and their assistants shall disclose any fact or circumstance that could give rise to justifiable doubts regarding their impartiality or independence.

2. For the avoidance of doubt, arbitrators and their assistants shall disclose any relationships they have with any individual or entity having a direct economic interest in the investor-state dispute.

3. The aforementioned disclosure obligation is a continuing duty applicable to any stage of the arbitration proceedings relating to the dispute between the investor and the State.

4. Arbitrators and their assistants must also comply with the International Bar Association (IBA) Guidelines on Conflicts of Interest in International Arbitration, as in effect on the date of the constitution of the arbitral tribunal.

Article 26. The Non-Disputing Contracting Party

1. Either Contracting Party shall notify the other Contracting Party of any arbitration proceedings brought against it regarding an investor-State dispute.

2. The non-disputing Contracting Party shall have the right, at its own expense, to receive from the other Contracting Party copies of all pleadings, expert reports, witness statements, exhibits, and legal submissions presented to the arbitral tribunal established pursuant to Article 17 of this Agreement. The non-disputing Contracting Party shall be bound by the confidentiality obligations set forth in Article 24 of this Agreement.

3. The non-disputing Contracting Party may submit a written request—which the arbitral tribunal established pursuant to Article 17 of this Agreement shall accept for consideration—regarding a matter of interpretation of this Agreement.

Article 27. Joint Interpretation

1. The arbitral tribunal established pursuant to Article 17 of this Agreement may, on its own initiative or at the request of either party to the investor-State dispute—within one hundred and twenty (120) days of the constitution of the arbitral tribunal—request a joint interpretation from the Contracting Parties regarding any provision of this Agreement.

2. The joint interpretation by the Contracting Parties, which shall be received within no more than ninety (90) days from the date the Contracting Parties receive the request for such joint interpretation, it shall be binding upon the said arbitral tribunal.

3. Any joint interpretation by the Contracting Parties regarding this Agreement shall be announced and shall be binding upon all arbitral tribunals established pursuant to Article 17 of this Agreement after the publication of such joint interpretation.

Article 28. Enforcement of Arbitral Awards

1. An arbitral award issued by an arbitral tribunal established pursuant to Article 17 of this Agreement shall be binding upon the parties to the investor-State dispute.

2. Subject to paragraph (3), the parties to an investor-State dispute shall abide by and comply with any arbitral award issued by an arbitral tribunal established pursuant to Article 17 of this Agreement without delay.

3. The parties to an investor-State dispute shall not seek enforcement of a final award issued by an arbitral tribunal

established pursuant to Article 14 until:

(a) In the case of a final award issued under the ICSID Convention:

1) 120 days have elapsed from the date of the award's issuance and no request for revision or annulment of the award has been submitted; or

2) The revision or annulment proceedings have been concluded; and

(b) In the case of a final award under the ICSID Additional Facility Rules, UNCITRAL Arbitration Rules, or any other arbitration rules agreed upon by the parties to the investor-State dispute pursuant to Article 17:

1) 90 days have elapsed from the date of the award's issuance and no proceedings have been initiated… proceedings to review, set aside, or annul the judgment; or

2) a court dismissed the action or granted a request for review, the judgment was overturned or set aside, and there was no further appeal.

Section D. Settlement of Disputes between States

Article 29. Arbitration between States

1. Disputes between the Contracting Parties arising from the interpretation and application of this Agreement shall be settled, to the greatest extent possible, through consultations or negotiations.

2. The Contracting Parties shall endeavor to settle the dispute amicably through negotiations—or, if necessary, through mediation and conciliation—within one hundred and eighty (180) days from the date a written notice is delivered by one Contracting Party to the other seeking settlement of the dispute under this Article 29.

3. If the dispute referred to in paragraph 1 cannot be settled within one hundred and eighty (180) days, it shall, upon the request of either Contracting Party, be submitted to a three-member arbitral tribunal.

4. Each Contracting Party shall appoint one arbitrator; the two arbitrators so appointed shall then agree upon a third arbitrator, who shall serve as the presiding arbitrator and must be a national of a state other than either of the Contracting Parties. The arbitrators selected by the Parties shall be appointed within two months from the date on which one Contracting Party notified the other of its intention to submit the dispute to an arbitral tribunal, and the presiding arbitrator shall be appointed within a further two months.

5. If the timeframes specified in paragraph (4) above are not met, either Contracting Party may, in the absence of any other agreed arrangement, request the President of the International Court of Justice to make the necessary appointments. If the President of the International Court of Justice is a national of either Contracting Party or is otherwise prevented from performing the specified function, the Vice-President of the International Court of Justice shall be requested to make the necessary appointments; in the event of his inability to do so, a member of the International Court of Justice shall be invited, under the same conditions, to make the necessary appointments. The appointed judge must be a national of a state maintaining diplomatic relations with both Contracting Parties.

6. The arbitral tribunal shall establish its own rules of procedure unless the Contracting Parties agree otherwise.

7. The provisions of Article 25 shall apply to the members of the arbitral tribunal and to any assistants.

8. The provisions of Article 24 shall apply to proceedings under this Article 29.

9. The tribunal shall render its decision in accordance with this Agreement and relevant provisions of international law, by a majority of votes; the decision of the tribunal shall be final and binding.

10. Each Contracting Party shall bear the cost of the member appointed by it and of its representation in the arbitration process. The Contracting Parties shall also bear the costs of the presiding arbitrator and other fees in equal shares. However, the tribunal may, in its award, determine a different allocation of costs.

Article 30. Consultation

1. A Contracting Party may request, in writing, consultations with the other Contracting Party regarding any measure or other matter considered likely to affect the implementation of this Agreement.

2. Consultations under paragraph (1) may address, inter alia, matters relating to the implementation, interpretation, or application of this Agreement.

3. In addition to consultations under this Article, the Contracting Parties may take any action they agree upon, such as amending or supplementing this Agreement.

Section E. Final Provisions

Article 31. Entry Into Force Entry Into Force, Amendment, and Termination

1. This Agreement shall enter into force on the date of receipt of the last notification through diplomatic channels by either Contracting Party informing the other Contracting Party of the completion of the internal legal requirements necessary for the entry into force of this Agreement.

2. This Agreement may be amended in writing by mutual agreement between both Contracting Parties, and amendments shall enter into force in accordance with the same procedures applicable to the entry into force of the Agreement.

3. This Agreement shall remain in force for a period of ten (10) years and shall continue to remain in force thereafter unless terminated as provided for in Paragraph 4 below.

4. Either Contracting Party may, by giving twelve (12) months' prior written notice to the other Contracting Party through diplomatic channels, terminate this Agreement at the end of the initial ten-year period or at any time thereafter. For the avoidance of doubt, this Agreement shall remain in force until the expiration of this twelve-month period.

5. With respect to investments made prior to the date of termination of this Agreement, the provisions of Sections (a) through (c) shall remain in effect for a period of fifteen (15) years commencing from the date of such termination.

In witness whereof, the undersigned, being duly authorized, have signed this Agreement.

Done in duplicate in Abu Dhabi on 23/4/2019 in the Arabic and English languages, both texts being equally authentic. In the event of a difference in interpretation, the English text shall prevail.

For the Government of the United Arab Emirates

For the Government of the Republic of South Sudan

Annex 1.

Each Contracting Party shall notify the other Contracting Party in writing, at any time after the date of entry into force of the Agreement, of the sectors or sub-sectors pursuant to Article 12(2) (b) of this Agreement, where it may adopt or apply measures that are inconsistent with Articles 6, 7, and 8 of this Agreement.

Annex 2.

1. The competent authority of the United Arab Emirates for the purposes of receiving "notifications of intent" pursuant to Article 16, requests for consolidation pursuant to Article 19(1), and requests for substitution pursuant to Section (c) of Article 20 of this Agreement is the Ministry of Finance of the United Arab Emirates.

2. The competent authority of the Republic of South Sudan for the purposes of receiving "notifications of intent" pursuant to Article 16, requests for consolidation pursuant to Article 19(1), and requests for substitution pursuant to Section (c) of Article 20 of this Agreement is the Ministry of Finance of the Republic of South Sudan.