

# **Agreement between the Government of the State of Bahrain and the Government of the Arab Republic of Egypt on the promotion and protection of investment**

The Government of the State of Bahrain and the Government of the Arab Republic of Egypt, hereinafter referred to as the Contracting Parties,

Wishing to create appropriate conditions for the intensification of the investment activity of the nationals of both countries and their companies in the territory of the other State,

Aware that the promotion and mutual protection of such investments, will stimulate individual business activity and work to consolidate and increase prosperity in both countries,

Have agreed as follows:

## **Article 1. Definitions**

As regards the application of the provisions of this Convention, and unless expressly provided otherwise, the following words shall have the meanings corresponding to each of them as set out below:

A. "Investments":

Means all types of assets owned by an investor of a Contracting Party and invested in the territory of the other Contracting Party earlier or later in the coming into force of this Agreement which is associated with the acceptance of the host Party as an investment under its laws and regulations

B. "Investment": Means all types of assets that include, but are not limited to :

1. Movable and immovable property and any other proprietary rights, such as mortgages, real estate or other liens
2. Shares, shares and bonds of companies, and any other form of contribution to companies, and proceeds reserved for the purpose of reinvestment.
3. The rights required in funds or any contractual works of financial value.
4. Intellectual and industrial property rights and material elements relating to commercial assets (such as trademark, patents, goodwill) used in a licensed investment project;
5. Privileges granted under a law or contract, including concessions for the exploration, development, extraction or exploitation of natural resources

Any change in the image of an investment of assets does not affect its status as an investment.

The term "investment" includes all investments based on the territory of the Contracting Parties or their maritime area.

C. "Proceeds": Means the amounts of any investment and includes, without limitation, profits, interest, capital gains, dividends and fees.

D. "Investor" means any natural or legal person possessing the nationality of one of the Contracting Parties under its laws and who invests in the territory of the other Party:

(1) "Nationals", means natural persons possessing the nationality of a Contracting Party;

(2) "Companies" means any legal person based on the territory of one of the Contracting Parties in accordance with its legislation and whose principal position is in the same territory or that such legal person is managed directly or indirectly by

the nationals of one of the Contracting Parties or by other moral persons The territory of one of the Contracting Parties established in accordance with its legislation.

E. "Territory":

(1) With respect to the State of Bahrain: The territory means the State of Bahrain, including its islands, the territorial sea and the adjacent area, and any offshore territorial area of the State of Bahrain where such area is or is likely to be classified in the future under the national law of the State of Bahrain and in accordance with international law. Related to its seabed and its soil and natural resources.

(2) With respect to the Arab Republic of Egypt: The territory means the territories within the international borders of the Arab Republic of Egypt, inland waters, territorial sea, continental shelf and exclusive economic zone subject to the sovereignty or territorial jurisdiction of the State in accordance with the provisions of international law.

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

1. The Contracting Parties shall be committed to encouraging and providing suitable conditions for the nationals and companies of the other party to invest capital in its territory, and shall be committed to the declaration of capital in its territory and shall be obliged to authorize the said capitals to enter its territory subject to its right to exercise its powers under its domestic laws.

2. The investments of nationals or companies of both Contracting Parties shall be accorded fair and equitable treatment at all times and shall afford them full protection and security in the territory of the other Contracting Party.

3. Proceeds of investments re-invested in accordance with the laws and regulations of the host Contracting Party shall enjoy the same protection and privileges as the original investments.

4. Each Contracting Party shall respect any obligations to which it has been bound in connection with the investments of nationals and companies of the other Contracting Party.

5. (A) Each Contracting Party shall endeavor to undertake the procedures and enact legislation necessary to grant facilities incentives and other appropriate forms of encouragement for investments by investors of the other Contracting Party.

(B) Investors of either Contracting Party shall have the right to submit to the competent authorities of the host Party the request for appropriate facilities, incentives and other forms of encouragement. The host Party shall grant them all assistance, approvals, acceptances, licenses and permits to the extent permitted by the Party's laws and regulations from time to time the host.

6. Each Contracting Party shall, in respect of its tax policy, endeavor to grant fair and equitable treatment to investments belonging to investors of the other Contracting Party in accordance with the investment laws of the Contracting Parties and the amendments thereto and the Convention on the Encouragement of Arab Capital Transfer, whichever is better.

7. The Contracting Parties shall endeavor to provide various incentives and facilitations to attract capital and encourage their investment in their respective regions such as commercial, customs, financial, tax and monetary incentives, especially during the first years of investment projects, in accordance with the laws and regulations of the host party.

8. The investors of either Contracting Party shall be permitted to appoint senior administrative officers of their choice regardless of nationality to the extent permitted by the laws of the host Party. The Contracting Parties shall provide all necessary facilities, including the issuance of residence permits to these administrative officers and their families in accordance with the laws of the host Party.

9. Each Contracting Party shall endeavor to avoid, to the greatest extent possible, the requirements for completion as a condition for the establishment, expansion or maintenance of investments which require the performance of the obligation to export the goods produced or those which specifically require the purchase of goods or services locally or those imposing any other similar requirements.

10. Each Contracting Party shall provide effective means to assert claims and enforce rights relating to investment and property agreements and permits.

11. Each Contracting Party shall declare all laws, regulations, procedures and administrative steps relating to or affecting investments.

## **Article 3. Most-favoured Nation Treatment**

Each of the Contracting Parties shall accord to the investors or proceeds of the investors of the other Contracting Party a treatment not less than that accorded to the investments and proceeds of its nationals or nationals of any other State. However, such treatment does not include the privileges conferred by one of the Contracting Parties to investors A third State under the contribution of that State or its participation in a free zone, customs union, common market or regional organization or under the avoidance of double taxation agreements or the development of border trade.

#### **Article 4. Compensation of Losses**

1. The nationals or companies of either Contracting Party whose investments are in the territory of the other Contracting Party shall be liable to losses resulting from war or other armed conflict, revolution, national emergency, uprising, insurrection or disturbance in the territory of the other Contracting Party with a treatment of at least the treatment accorded to its citizens or companies or to nationals or companies of any other State in respect of the restitution of the rights to the owners or compensation for possible loss or other adjustments, while ensuring the free transfer of the amounts of such compensation.

2. Without prejudice to the provisions of paragraph (1) above in this Article, the rights of the nationals or subsidiaries of either Contracting Party shall be refunded or compensated in fair compensation with the freedom to transfer the amounts of such compensation in the event of any loss in any of the cases referred to therein Paragraph in the territory of the other Contracting Party, and shall result from:

(A) The confiscation of their property by the forces or authorities of the other party,

(B) The destruction of their property by the forces or authorities of the other Contracting Party if such destruction is not in a combat or necessary conflict,

Shall be reimbursed or given fair compensation while ensuring the free transfer of the amounts resulting from such compensation.

#### **Article 5. Nationalization and Expropriation**

1. Subject to the provisions of Article 7 of this Agreement, the investments of nationals or subsidiaries of any Contracting Party may not be nationalized, expropriated or subjected to any equivalent procedures for nationalization or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party, unless expropriation is made for a general purpose and on a non-discriminatory basis and in return for just and effective compensation paid immediately, provided that such compensation covers the real value of the investments prior to expropriation directly or prior to any expropriation, whichever is earlier. Interest shall be calculated at the normal commercial interest rate up to the date of payment. Such compensation shall be paid without delay, provided that it is available for use and freedom of transfer. The affected citizen or company shall be subject to immediate review in accordance with the laws of the Contracting Party which expropriates the property by a judicial authority. The subject of expropriation and valuation of investments affected by it will be decided in accordance with the principles set forth in this paragraph.

2. Where either Contracting Party expropriates the assets of an incorporated company under the laws in force in any part of its territory and the nationals or companies of the other Contracting Party hold shares in that company, this Article will be applied to the extent necessary to ensure that immediate and equitable compensation is given to the investments of nationals or companies of the other Contracting Party having such shares.

#### **Article 6. Conversion of Investments and Investment Proceedings**

1. Each of the Contracting Parties shall guarantee the freedom of transfer of their investments and proceeds in accordance with the domestic legislation in force in their respective countries in respect of the investments of nationals or companies of the other Contracting Party and shall make such transfer without delay in the free currency in which the original investment capital Or any other free currency agreed upon between the investors and the Contracting Party concerned. Unless otherwise agreed by investors, remittances are made at the rates of exchange prevailing on the date of transfer and in accordance with applicable currency conversion regulations.

2. The host party shall guarantee to the investor the freedom to dispose of the ownership of the capital either by sale in whole or in part, by liquidation, by assignment, by gift or by any other means of transfer of ownership.

#### **Article 7. Exceptions**

The provisions of this Agreement relating to the granting of a treatment not less favorable than that accorded to nationals

or companies of either Contracting Party or of any other Contracting State or nationals shall not be construed as obliging a Contracting Party to grant nationals or companies of the other Party the advantages of any transaction or privilege of:

(A) An existing or future customs union, a free trade zone, a regional cooperation council or any international agreement that either Contracting Party may become a future party to.

(B) Any international agreement, arrangement or legislation relating wholly or mainly to taxation.

## **Article 8. Disputes between the Investor and the Host Countries**

Disputes between a citizen or a company of one of the Contracting Parties and the other Contracting Party in respect of an obligation of the other party under the provisions of this Agreement relating to the investment of such person or company that are not settled in friendly manner by the disputing parties, shall be referred to international arbitration, if either of the parties to the dispute so desires, under the rules of arbitration established by the United Nations Commission on International Trade Law 1976 and its applicable amendments or any arbitration rules established by the Commission in lieu of the 1976 Rules and amendments, so that they would not agree to amend these rules in writing.

## **Article 9. Disputes between the Contracting Parties**

1. Disputes between Contracting Parties concerning the interpretation and application of this Convention should be settled, if possible, through diplomatic channels.

2. If the dispute between the Contracting Parties cannot be settled through diplomatic channels, such dispute may be submitted at the request of one Contracting Party to an arbitral tribunal.

3. The arbitral tribunal shall be composed on a case-by-case basis as follows:

(A) Within two months from the date of receipt of the request for arbitration, each Contracting Party shall appoint one member of the arbitral tribunal. These members shall select a national of a third State appointed as Chairman of the Arbitral Tribunal after the approval of the Contracting Parties. The President shall be appointed within two months from the date of appointment of the two members.

(B) If the necessary appointments are not made within the time periods specified in paragraph (a) of this Article and in the absence of any further agreement between the Parties, either Contracting Party may invite the President of the International Court of Justice to make any necessary appointments. If the President of the International Court of Justice is a national of either Contracting Party or if he is unable to carry out the said functions, the Vice-President of the International Court of Justice shall be requested to make the necessary appointments. If the Vice-President is a national of either Contracting Party, or if he is unable to perform the said tasks, the next member of the International Court of Justice who is not a national of either Contracting Party shall be required to make the necessary appointments.

(C) The arbitral tribunal shall take its decisions by a majority vote and shall be binding on the Contracting Parties. Each Party shall bear the costs of the member of the arbitral tribunal appointed by it and shall be represented in the deliberations of the arbitral tribunal. The costs of the head of the arbitral tribunal and the remaining costs shall be divided equally between the Contracting Parties. However, the Commission may decide to charge one of the Contracting Parties the largest part of the costs, which shall be binding on the parties. The arbitral tribunal shall determine its own procedures.

## **Article 10. Subrogation by Contracting Parties**

1. If the Contracting Parties or the organ designated by it makes any payment in respect of an award granted in respect of an investment in the territory of the other Party, the other Contracting Party shall recognize the rights conferred upon the first Contracting Party or its legally designated organ or a legal document to be executed by it, which includes all the rights and claims of the compensated party and recognizes the right of the first party or the organ designated by him to exercise those rights and to implement those claims under his right to perform his citizenship within the limits of the guaranteed party or compensation.

2. Any payments received by the first Contracting Party or the organ designated by it in currencies not convertible under the rights and claims acquired shall be available for free disposal by the first Contracting Party for the purpose of covering any expenses incurred in the territory of the other Contracting Party.

## **Article 11. Compensation Resulting from Non-compliance with the Guarantees Granted to the Investor**

1. The investor shall be entitled to compensation for the damage caused to him by a Contracting Party or one of its general or local authorities or its institutions:

(A) Prejudice to any of the rights and guarantees provided to the investor in this Agreement.

(B) Breach of any of the international obligations and undertakings imposed on the other Contracting Party or failure to do so, whether intentionally or negligently.

(C) Refrain from implementing an enforceable judgment directly related to the investment.

2. The amount of compensation shall be equal to the damage suffered by the investor depending on the type and amount of the damage.

3. Compensation shall be monetary if it is not possible to reinvest the investment into a situation prior to the occurrence of the damage.

4. The assessment of monetary compensation shall be within three months of the date of the injury and shall be paid within six months from the date of the agreement on the amount of compensation.

## **Article 12. Scope of Application**

The provisions of this Agreement shall apply to existing investments before and after the entry into force of this Agreement.

## **Article 13. Application of other Provisions**

If the provisions of the law applicable in the country of either Contracting Party or the obligations under existing international law or subsequent to the signing of this Convention in addition to the present provisions of the Convention contain provisions whether general or specific Investments made by investors of the other Contracting Party shall be accorded a more favorable treatment than the treatment provided by the present Convention. These provisions shall be applied in lieu of the provisions of the present Convention to the extent of their preferential treatment.

## **Article 14. Entry Into Force**

This Agreement shall enter into force thirty days after the date of notification by each Contracting Party of the other Party of the completion of the constitutional procedures necessary for the entry into force of this Agreement.

## **Article 15. Duration of the Agreement**

This Agreement shall remain in force for a period of ten years and shall remain in force thereafter unless one of the Contracting Parties informs the other in writing and the diplomatic party of its desire to terminate the Agreement one year prior to the expiry date and in respect of the investments which have been suspended. The provisions of the Agreement relating to such investments shall continue for ten years after the date of termination of the Agreement, without prejudice to the right to apply the provisions of general international law.

In recognition of the above, the undersigned, duly authorized by their respective Governments, have signed this Convention.

Done from two originals in the city of Cairo in Arabic on 17/9/1997 corresponding to 15/5/1418 e.