

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDONESIA AND THE GOVERNMENT OF THE STATE OF QATAR FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

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

Desiring to strengthen Economic Cooperation between the two States particularly with respect to investment by investors of one Party in the territory of the other Party;

Recognising that the promotion and protection of these investments will stimulate the flow of capital and technology between the two Contracting Parties in the interest of economic development.

Also recognising that fair equitable treatment of investment is desirable in order to maintain a stable framework for investment and maximum effective utilization of economic resources.

Have agreed as follows:

Article 1. Definitions

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

1. The term "investments" shall mean any kind of asset invested by investors of one Contracting Party in the territory of the other Contracting Party, in conformity with the laws and regulations of the latter including, but not exclusively:

(a) stocks or any other form of participation in companies;

(b) returns reinvested, claims to money or other rights having financial value relating to an investment;

(c) movable and immovable monies as well as any other rights such as mortgages, liens, pledges and any similar rights as defined in conformity with the laws and regulations of the Party in whose territory the property is situated;

(d) industrial and intellectual property rights, patents, industrial designs, trademarks, goodwill, know-how and any other similar rights.

(e) business concessions conferred by law or under contracting, including the concessions related to natural resources.

2. The term "return" shall mean the amounts yielded by an investment and includes in particular, though not exclusively, profits, interest, and dividends.

3. The term "investor" shall mean:

(a) natural person having the nationality of that Contracting Party;

(b) legal person constituted under the law of that Contracting Party, including Government and Government agencies.

4. The term "territory" means:

a. In respect of the Republic of Indonesia:

The territory of the Republic of Indonesia as defined in its laws, including parts of the continental shelf, the Exclusive Economic Zone, subsoil adjacent to the outer limit of the territorial seas over which the Republic of Indonesia has sovereignty, sovereign rights or jurisdiction in accordance with the 1982 United Nations Convention on the Law of the Sea.

b. In respect of the State of Qatar:

The territory of the State of Qatar including the territorial sea as well as the continental shelf, over which the State of Qatar exercises sovereignty in accordance with international law, sovereign rights and jurisdiction.

Article 2. Promotion and Protection of Investments

1. Either Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to invest in its territory, and shall admit such capital in accordance with its laws and regulations.

2. Investments of investors of either Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy adequate protection and security in the territory of the other Contracting Party.

3. Subject to the laws and regulations of the parties relating to the entry, sojourn and employment of aliens;

(a) Nationals of either Contracting Party shall be permitted to enter and to remain in the territory of the other Contracting Party and its maritime area for the purpose of establishing, developing, administering or advising on the investment operations in which those nationals or investors have contributed in their capital or other resources.

(b) Companies which are legally constituted under the applicable laws and regulations of one Contracting Party, and which are investments of investors of the other Contracting Party, shall be permitted to engage managerial and technical personnel of their choice, regardless of nationality.

4. The provisions stipulated in the previous paras shall have not effect in relation to the privileges granted by either Contracting Party to the investors of a third party state by virtue of its participation in any of the following agreements:

(a) Agreements relating to any existing or future customs unions, free trade zones, regional economic organizations or similar international agreements;

(b) Agreements relating wholly or mainly to taxation.

Article 3. Expropriation and Compensation

1. Each Contracting Party shall not take any measures of expropriation, nationalization or any other dispossession, having effect equivalent to nationalization or expropriation against the investments of an investor of the other Contracting Party except under the following conditions:

(a) the measures are taken for a lawful purpose or public purpose and under process of laws;

(b) the measures are non-discriminatory;

2. The measures are accompanied by provision for the payment of prompt, adequate and effective compensation. The said compensation shall be equivalent to the real market value for the expropriated investment at the time of its expropriation or its declaration and shall be estimated in accordance with a normal economic situation prevailing prior to any threat of expropriation, as mutually agreed between the parties hereto. The compensation due shall be paid without delay and enjoys free transfer, and it shall produce interest from the date of dispossession until the date of payment to be calculated in accordance with the interest rate prevailing in the territory where the investment is made.

3. In case the investments of either Contracting Party sustain losses in the territory of the other party as a result of war or any other armed conflict or civil riots or any other similar events, that Contracting Party shall offer the investors of the other Contracting Party a treatment not less favourable than that enjoyed by investors of the most favoured state pursuant to the procedures of that Contracting Party which it adopts in connection with losses inflicted on these investments.

Article 4. Repatriation of Investment and Returns

1. Each Contracting Party shall permit, within the scope of its laws and regulations concerning foreign investment, the other Contracting Party all transfers related to its investments to be made freely and without unreasonable delay into and out of its territory. Such transfer include:

(a) Returns;

(b) Proceeds from the sale or liquidation of all the investment or part thereof;

(c) Compensation pursuant to Article 3 of this Agreement;

(d) Repayment of loan and interests from loans in connection with investment;

(e) Salaries, wages, and other remunerations received by the natural person of one Contracting Party against their services for a licensed investment in the territory of the other party;

(f) Payments arising from an investment dispute.

2. Such transfer shall be made in the convertible currency and at the prevailing exchange rate on the date of transfer.

Article 5. Subrogation

1. If the investment of an investor of one Contracting Party is insured against non-commercial risks under a special system any subrogation of the insurer which stems from the terms of the insurance agreement shall be recognized by the other Contracting Party.

2. The insurer shall not be entitled to exercise any rights other than the rights which the investor would have been entitled to exercise.

Article 6. Application of the other Provisions

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 the present Agreement contain a regulation whether general or specific, entitling investments by investors of the other

Contracting Party to a treatment more favourable than is provided for by the present Agreement, such regulations shall, to the extent that it is more favourable, prevail over the present Agreement.

Article 7. Preclusion

1. This Agreement shall not preclude the application by either Contracting Party of measures necessary for the maintenance of public order and morals, the fulfillment of its obligation with respect to the maintenance of restoration of international peace and security, or the protection of its own essential security interests.

2. This Agreement shall not preclude either Party from adopting special procedures in connection with the establishment of investments, provided that such procedures shall not violate any of the basic rights stipulated in this Agreement.

Article 8. Taxation

In accordance with its tax laws and regulations, each Contracting Party should strive to accord fairness and equity in the tax treatment of investment of investors of the other Contracting Party.

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

1. Any legal dispute arising directly from an investment between either Contracting Party and an investor of the other Contracting Party shall be settled amicably among themselves.

2. If such disputes cannot be settled according to the provisions of paragraph (1) of this Article within six months from the date of request in writing for settlement, the investor concerned may submit the dispute to:

(a) to the competent court of the Contracting Party for decision;

(b) The International Center for the Settlement of Investment Disputes established under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, of March 18, 1965 done in Washington, D.C. if this Convention is applicable; or

(c) an Ad Hoc Arbitral tribunal.

Either party to the investment dispute who chooses one of the above mentioned ways of the Settlement of Dispute, can not choose the two other ways.

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 paragraph 2 (a) herein above have not been respected, either party, in the absence of any other agreement, shall invite the Secretary General of the Permanent Court of the Arbitration at the Hague to make the necessary appointments.

(c) The Ad Hoc Arbitral 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 the domestic law. They shall be taken in conformity with the provisions of this Agreement, the laws of the Contracting Party to the dispute and the principles of International Law.

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

It shall interpret its award at the request of either party. Unless otherwise agreed by the parties, the venue of arbitration is the seat of the Permanent Court of Arbitration at the Hague (Netherlands) or any other country as agreed upon by the parties in the investment dispute.

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. Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties relating to the interpretation, application or termination of this Agreement shall be settled, if possible, by diplomatic channels.

2. If the dispute has not been settled within a period of six months from the date on which the matter was raised by either Contracting Party, it may be submitted at the request of either Contracting Party to an Arbitral Tribunal.

3. The said Tribunal shall be created as follows for each specific case: each Contracting Party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint by mutual agreement a citizen of third country, who shall be designated as Chairman of the Tribunal. All the arbitrators must be appointed within two months from the date of notification by one Contracting Party to the other Contracting Party of its intention to submit the dispute to arbitration.

4. If the period specified in paragraph (2) above has not been respected, either Contracting Party in the absence of any other Agreement, shall invite the President of the International Court of Justice to make the necessary appointments. If the President is a citizen of either Contracting Party, or if he is otherwise prevented from discharging the said function, the Vice-President who is not a citizen of either Contracting Party, shall make the necessary appointments. If the Vice-President is a citizen of either Contracting Party or if he is also prevented from discharging the said function, the member of the Court next in seniority who is not a citizen of either Contracting Party should make the necessary appointments.

5. The Tribunal shall reach its decision by a majority of votes. These decisions shall be final and legally binding upon the Contracting Parties. They shall be taken in conformity with the provisions of this Agreement, and the related principles of International Law.

6. The Tribunal shall set its own rules of procedure. It 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) or any other country agreed upon by both Contracting Party.

7. Unless otherwise decided by the Tribunal, each Contracting Party shall bear the cost of the arbitrator it has appointed and of its representation in the arbitral proceedings. The cost of the Chairman and the remaining costs shall be borne in equal parts by the Contracting Parties.

Article 11. Applicability of this Agreement

1. This Agreement shall apply to investments by investors of the State of Qatar in the territory of the Republic of Indonesia which have been previously granted admission in accordance with the Indonesian law of foreign investment and any law amending or replacing it, and to investments by investors of the Republic of Indonesia in the territory of the State of Qatar which have been specifically approved in writing by competent authorities of the State of Qatar in accordance with the

applicable laws and regulations of the State of Qatar and any laws amending or replacing them.

2. This Agreement shall apply to all investments whether made before or after the date of entry into force of this Agreement, but the provisions of this Agreement shall not apply to any dispute, claim or difference which arose before its entry into force.

Article 12. Consultation and Amendment

1. Either Contracting Party may request that consultations be held on any matter concerning this Agreement. The other Party shall accord sympathetic consideration to the proposal and shall afford adequate opportunity for such consultations.

2. This Agreement may be amended at any time, if deemed necessary by mutual consent.

Article 13. Entry Into Force, Duration and Termination

1. This Agreement shall enter into force on the thirtieth day after the date of receipt of the later notification by which the Contracting Parties have notified each other that their constitutional requirements for the entry into force of this Agreement have been fulfilled.

2. This Agreement shall remain in force for a period of ten (10) years and shall continue in force thereafter, unless either Contracting Party notifies the other in writing of its intention to terminate this Agreement one year before its expiration.

3. With respect to the investments made prior to the date of termination of this Agreement, the provisions of this Agreement shall continue to be effective for a period of ten (10) years from the date of termination.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective governments, have signed this Agreement.

Done at Doha on this 13 day of Muharram 1420 H corresponding to 18 April 2000 in two originals each in the Indonesian, Arabic and English languages, each texts being equally authentic. In case of any divergence, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF INDONESIA

(Signed)

Dr. ALWI SHIHAB

Minister for Foreign Affairs

FOR THE GOVERNMENT OF THE STATE OF QATAR

(Signed)

HAMAD BIN JASSIM BIN JABBOR AL THANI

Minister of Foreign Affairs