

Agreement on the reciprocal protection of investments between the Government of the United Arab Emirates and the Government of the Republic of Yemen

The Government of the United Arab Emirates and the Government of the Republic of Yemen, (hereinafter referred to as the "Contracting Parties").

Desiring to strengthen the economic cooperation between the two brotherly countries for their mutual benefit.

Confirming their determination to create favorable conditions for the investment of capital by investors of either Contracting Party in the territory of the other Contracting Party.

Realizing that the provision of mutual promotion and protection of these investments, under the investment laws and regulations in force in the Contracting Parties and this agreement, will be an incentive to revitalize trade initiatives and foster the prosperity in both Contracting Parties.

Have agreed as follows:

Article 1. Definitions

For the purpose of this Agreement:

(1) The term "investment" means any kind of property or asset of an investor or investors of a Contracting Party, invested in the territory of the other Contracting Party in accordance with the laws and regulations of that party. The term "investment" includes the following:

- a. Movable and immovable property and rights associated with it under the investment.
- b. Debt and debt servicing related to the investment, in addition to gains and capital returns that are reinvested.
- c. Trademarks, patents, industrial designs and other intellectual and industrial property rights, trade secrets, trade names and goodwill associated with the investment.
- d. Any increase in the value of the original investment.
- e. Any change to the form the investment was made or reinvested shall not affect its treatment as an investment.

(2) The term "investor" shall mean the following for a Contracting Party:

- a. A natural person holding the nationality of that Contracting Party in accordance with its applicable laws, or
- b. The government, its agencies and the financial institutions of that Contracting Party, or
- c. Any legal person or any other entity legally established in accordance with the laws and regulations of that Contracting Party, such as institutes, development funds, charitable and educational institutions and organizations, establishments, agencies, projects, cooperative societies, companies of all forms and types, trade unions and similar entities, and any entity established as a legal person that is owned or dominated by that Contracting Party or any of its nationals, or any entity established within its authority.

(3) The term "returns" means the funds legally yielded by an investment through its activity in the territory of the other Contracting Party, including particularly profits, interest, capital gains, dividends (shareholder rights), returns from rights of various forms, and payments from technical and auxiliary services.

(4) The term "territory" means, for the Republic of Yemen, the territory that lies under its jurisdiction including the islands, regional sea, the special economic zone, continental shelf and the other areas over which the Republic of Yemen practices

its sovereignty and jurisdiction rights according to its laws and the international law.

(5) The term "territory" means, for the United Arab Emirates, the territory of the United Arab Emirates that includes its regional waters, islands, special economic zone, continental shelf and air space. It also includes the deep-sea and underground natural resources over which the United Arab Emirates practices its sovereignty rights according to its national legislation and international law.

Article 2. Promotion and Protection of Investments

(1) Each Contracting Party shall encourage investors of the other Contracting Party to invest in its territory.

(2) Each Contracting Party undertakes to, at all times, provide fair and equitable treatment to investments and investors of the other Contracting Party. It also undertakes to not subject the management, maintenance, use, alteration and exploitation of direct and indirect investments made in its territory by an investor of the other Contracting Party to any unfair or discriminatory measures.

(3) Each Contracting Party shall, in accordance with its law and regulations regarding the entry, residence and work of natural persons, in good faith, study the applications of investors of the other Contracting Party and the applications of the executive management of technical and admin staff associated with the investment in entering and temporarily residing in its territory. Direct family members shall be granted the same treatment regarding their entry and residence in the host Contracting Party.

Each Contracting Party shall, in accordance with its law and regulations, allow investors of the other Contracting Party, who have investments in its territory, to employ any executive person chosen by the investor, regardless of their nationality, within the period of time during which this executive person is allowed to enter, reside and work in the territory of the formerly mentioned Contracting Party.

(4) The Contracting Parties shall not enforce compulsory procedures on investors of the other Contracting Party that would require or restrict the purchase of materials, energy, fuel or means of production, transportation, or any kind of operation, or restrict the marketing of products within or outside the territory of the host Contracting Party, or any procedures that have a discriminatory against investments made by investors of the other Contracting Party in favor of its own investors or investors of a third state.

Article 3. National and Most Favored Nation Treatment

(1) Each Contracting Party shall provide, in accordance with its laws and within its territory, investments and returns of investors of the other Contracting Party full legal protection and fair treatment that is not less favorable than that provided to investments of its own nationals or investors of a third state.

(2) The provisions of Paragraph (1) of this Article shall not apply to the privileges and benefits that may be granted by a Contracting Party to investors of a third state under its membership in a customs or economic union, common market, free trade area, regional agreement, international economic or multilateral agreement, or under an international agreement, or a treaty for the avoidance of double taxation or to facilitate border trade.

Article 4. Nationalization and Expropriation

(1) Investments of either Contracting Party shall not be subject, directly or indirectly, to nationalization, expropriation, seizure, requisition or any other similar measure such as the forced sale of all or part of the investment by the state, unless it is for a public purpose or national interest, against immediate and fair compensation, where such measures shall be taken on a non-discriminatory basis and in accordance with legal procedures and laws.

(2) Such compensation shall amount to the actual value of the expropriated investment, and shall be determined and computed in accordance with the internationally recognized principles of valuation on the basis of the fair market value of the expropriated investment immediately before the expropriation took place or the impending expropriation became publicly known, whichever is earlier. The compensation shall be computed in a freely convertible currency chosen by the investor, on the basis of the prevailing market value of the exchange rate of that currency on the valuation date. If the equivalent market value mentioned earlier cannot be easily determined then the compensation shall be based on fair principles, taking into account all the factors and circumstances related to it such as the invested capital, nature and duration of the investment, replacement value, increase in the value of the investment, current returns, computed cashflow value, book value and goodwill. The final compensation determined value shall be paid immediately to the investor in a freely convertible currency and shall be freely transferrable without delay.

(3) In light of the principles set forth in Paragraph (2), and without prejudice to the rights of the investor mentioned in Article (8) of this agreement, the affected investor shall have the right of immediate review of his case, in addition to the valuation of his investment and compensation payments on this investment, by the legal authority or other independent specialized authority of that Contracting Party.

(4) For further certainty, expropriation shall include situations where a Contracting Party expropriates the assets of an investment company or established project in accordance with the laws applicable in its territory, in which an investor of the other Contracting Party has made an investment either through shares, bonds, debt securities or other rights or interests.

Article 5. Compensation for Losses

If investments of investors of either Contracting Party suffers losses or damages due to war or armed conflict, a state of emergency, civil conflict, riot or other similar events, the compensation for such losses or damages shall not be less favorable than that provided to nationals of the Contracting Party in which the investment was made or to any third party.

Article 6. Transfer of Capital, Interest and Returns

(1) Each Contracting Party shall permit investors of the other Contracting Party to freely transfer abroad the following without undue delay and in any convertible currency, in accordance with the laws and regulations applicable to the investment:

- a. Invested capital, including reinvested returns for the purpose of the maintenance and increase of the investment.
- b. Net returns, dividends and fees paid for technical and auxiliary services, interest and other profits and returns from a project or investment corporation of a Contracting Party.
- c. Proceeds from the full or partial sale or liquidation of the investment.
- d. Funds allocated for the repayment of loans associated with the investment and the payment of the interest thereon.
- e. Compensation as per Articles (4) & (5) of this agreement and payments obtained from disputes related to the investment.
- f. Fees and allowances paid to nationals of the other Contracting Party for work and services provided under the investment made in the territory of the other Contracting Party, to the extent and as provided for in the applicable national legislation and regulations

(2) Without limiting the scope of Article (3) of this agreement, each Contracting Party shall provide the transfers set forth in Paragraph (1) of this Article the same favorable treatment provided to investments made by investors of a third state.

(3) The transfer of payments and amounts mentioned in the previous paragraphs shall be made without delay and in any freely convertible currency.

Article 7. Subrogation

(1) If either Contracting Party or one of its institutions provides a guarantee associated with the commercial risks on an investment of his investor made in the territory of the other Contracting Party, and has made a payment to this investor under this guarantee, then the aforementioned Contracting Party or its institution that provided the guarantee can subrogate it in exercising all rights accorded to it by law and this agreement.

(2) Such guarantor shall not have the right to exercise any rights other than those exercised by the investor.

Article 8. Settlement of Disputes between Investors and the Contracting Parties

(1) Any dispute arising between a Contracting Party and investors of the other Contracting Party regarding investments in its territory shall be settled amicably.

(2) If the dispute could not be settled amicably within six months from the date of the written request for settlement, the concerned investor can choose to present the dispute for settlement through:

- a. The competent court of the host Contracting Party, or
- b. An arbitration tribunal established for this purpose in accordance with the arbitration principles followed by the host Contracting Party.

c. In accordance with the provisions of the agreements signed within the framework of the Arab League regarding the settlement of investment disputes between Arab countries.

d. An arbitration tribunal established for this purpose in accordance with the United Nations Commission on International Trade Law.

e. The International Centre for Settlement of Investment Disputes, for the application of the arbitration principles as per the Washington Agreement, dated 18 March 1965 regarding the settlement of investment disputes between states and nationals of other states, if both Contracting Parties are already parties to this agreement.

(3) Each Contracting Party shall take the necessary measures for the actual implementation of these decisions in its territory in accordance with its laws.

Article 9. Dispute Settlement between the Contracting Parties

(1) Disputes that arise between the Contracting Parties concerning the interpretation or application of this agreement shall be settled amicably through negotiations.

(2) If the dispute could not be settled within six months from the date either Contracting Party forwarded a written request to negotiate to the other Contracting Party, the dispute may be presented, at the request of either Contracting Party, to an arbitral tribunal established for this purpose as set forth in this article.

Article 10. Entry Into Force

This agreement shall enter into force starting from the date both Contracting Parties notify each other of the completion of the constitutional ratification procedures of this agreement. The provisions of this agreement shall be applicable to investments made before and after the entry into force of this agreement, but shall not be applicable to disputes arising before the entry into force of this agreement.

Article 11. Duration and Termination

(1) This agreement shall remain in force for a period of 10 years from the date of notification stated in Article (11) above, and shall be automatically renewed for additional periods at least a year before its end.

(2) With regards to investments made before the end of this agreement, the provisions of this agreement shall remain in force on these investments for an additional period of 10 years from the date the investments were made.

In witness whereof the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement

Done in Sanaa on 19 Zu Al Qeda 1421 Hijri, 13/2/2001 in two copies in Arabic, all texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED ARAB EMIRATES

Hamdan Bin Zayed Al Nahyan

Minister of Foreign Affairs

FOR THE GOVERNMENT OF THE REPUBLIC OF YEMEN

Abdulqader Bajmal

Deputy Prime Minister and Minister of Foreign Affairs