

# **Agreement between the Government of the Kingdom of Bahrain and the Government of the Republic of Yemen on the Promotion and Protection of Investments**

The Government of the Kingdom of Bahrain and the Government of the Republic of Yemen, hereinafter referred to as the Contracting Parties,

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

Aware that the encouragement and mutual protection of such investments, the transfer of capital, technology and work to consolidate and increase prosperity in the two countries

Have agreed on the following:

## **Article 1. Definitions**

With respect to the application of the provisions of this Agreement and unless expressly provided otherwise, the following terms 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 at the time Prior or subsequent to the entry into force of this Agreement, which is accompanied by the acceptance of the host Party as an investment in accordance with its laws and regulations.

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

1. Movable and immovable property and any other rights of ownership, such as mortgages, real estate or other concessions or mortgages.
2. Shares, bonds, shares and any other form of participation in companies and proceeds reserved for the purpose of reinvestment.
3. Obligations and debts as well as debt service in return, resulting from a contract related to investment.
4. Intellectual and industrial property rights and material elements relating to commercial assets such as (trademarks, licenses, patents, goodwill) used in a licensed investment project.
5. Privileges granted under a law or contract, including concessions for the search for, development, extraction or exploitation of natural resources and agriculture, in a manner that does not conflict with the laws in force in both Contracting Parties.

Any change in the form of investment of assets does not affect its status as investments. Including all investments based on the territory of the Contracting Parties or their respective maritime regions.

C. "Proceeds" means the amounts due from any investment and includes - without limitation - profits, interest and capital gains, dividends and fees.

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

1. Natural person means a citizen who holds the nationality of one of the Contracting Parties under its laws;
2. Legal person: The companies or any legal person based on the territory of one of the contracting parties in accordance with the legislations in force and whose main position is in the same territory or that the legal person is managed directly or

indirectly by one of the contracting parties or by other legal persons whose status is Of the territory of one of the contracting parties established in accordance with the legislation in force.

E. "Territory":

1. With respect to the Kingdom of Bahrain: The Kingdom of Bahrain shall mean the Kingdom of Bahrain as well as the maritime areas, the seabed and the land under which Bahrain exercises sovereign rights and jurisdiction in accordance with international law.
2. With respect to the Republic of Yemen: the territory under its sovereignty, including the islands and the territorial sea, as well as the exclusive economic zone as well as the continental shelf and other areas under which the Republic of Yemen exercise its sovereignty and authority in accordance with its laws and international law.

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

1. Each Contracting Party shall encourage and provide suitable conditions for nationals and companies of the other Contracting Party to invest capital in its territory and shall undertake to authorize such capital to enter its territory, subject to its right to exercise its powers conferred upon it by 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 reinvested in accordance with the laws and regulations of the host Contracting Party shall benefit from the same protection and privileges as the original investments.
4. Each Contracting Party shall respect any obligations to which it has been bound in respect of the investments of nationals and companies of the other Contracting Party.

## **Article 3. Most-favored-nation Treatment**

1. Each Contracting Party shall, in its territory, grant the investments of nationals and companies of the other Contracting Party a treatment that shall not be less privileged than that accorded to its nationals and corporations or to nationals and third-party companies.
2. Each Contracting Party shall grant to its territory nationals and companies of the other Contracting Party, in particular with respect to the administration, exploitation or utilization of their investments, shall not be less privileged than those allocated to its citizens and companies or nationals and other State companies.
3. Such treatment shall not extend to the privileges granted by a Contracting Party to nationals and companies of a third State under either its membership in a customs or economic union, a common market, a free trade zone, a regional cooperation council, a double taxation agreement or any agreement in the field of taxation.

## **Article 4. Expropriation or Nationalization**

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 subject to any equivalent process of nationalization or expropriation (hereinafter referred to as "expropriation" ) In the territory of the other Contracting Party unless expropriation is made for a public purpose and on a non-discriminatory basis and in return for fair and effective compensation immediately paid on such compensation to cover the real value of the investments prior to expropriation directly or before the news of expropriation is received and such compensation is paid without delay While making use of it and guaranteeing the freedom to transfer it.
2. The nationals or companies affected by the expropriation shall be entitled to an immediate review, in accordance with the laws of the Contracting Party which is expropriating by a judicial authority or an independent authority of that Party for expropriation and the valuation of the investments affected in accordance with the principles mentioned in this paragraph.
3. Where either Contracting Party expropriates the assets of an incorporated company or a problem 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, the party that expropriates shall comply with the provisions of paragraph (1) of this Article to the extent necessary to ensure that immediate and fair compensation is given to the investments of citizens or companies of the other Contracting Party owning the shares.

## **Article 5. Compensation Forlosses**

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 no less favorable than the transaction Granted to its citizens or companies or to any other country's citizens or companies with respect to the restitution of the rights to its owners or compensation for possible loss or any other settlement, while ensuring the free transfer of the amounts of such compensation.
2. Without prejudice to the provisions of paragraph (1) above of this Article, the rights of the citizens 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 case of any loss in any of the cases referred to in that paragraph or Any other damage in the territory of the other Contracting Party.

## **Article 6. Remittances**

1. Each of the Contracting Parties shall ensure that the investments of the other Contracting Party's nationals or companies shall be free to transfer their investments and revenues in accordance with the domestic legislation in force in their respective countries after the payment of the tax dues and that the transfer shall be effected without delay in the free currency in which the original investment capital or any other free currency To be agreed upon between the investors and the Contracting Party concerned and unless otherwise agreed, remittances shall be effected at the rates of exchange prevailing on the date of transfer and in accordance with the 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. Settlement of Disputes between the Investor and the Host Country**

Disputes arising 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 for the investment of such citizen or company and not settled amicably within six (6) months shall be referred to international arbitration by any of the parties to the dispute:

- A. Under the Arbitration Rules established by the United Nations Commission on International Trade Law 1976 and its amendments or any other rules of arbitration established by the Commission.
- B. The International Center for the Settlement of Investment Disputes established under the Convention on the Settlement of Disputes Relating to Investments between States and Nationals of States, and the parties to the dispute may agree in writing to amend these rules.

## **Article 8. Settlement of Differences In Implementation and Application between the Contracting Parties**

1. Disputes between the Contracting Parties concerning the interpretation and application of this Convention should be settled through diplomatic channels.
2. If the dispute arising between the Contracting Parties can not be settled through diplomatic channels within six (6) months, such dispute may be submitted at the request of one of the Contracting Parties to an arbitral tribunal.
3. The arbitral tribunal for each individual case consists 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 (1) of this Article and in the absence of any other 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 citizen of Lai The Vice-President of the International Court of Justice shall be required to make the necessary appointments. If the Vice-President is a national of either Contracting Party or if he is unable to carry out the said tasks, the following member of the

International Court of Justice shall be requested in the priority Which should not be a citizen of either Contracting Party, make the necessary appointments.

C. The decisions of the arbitral tribunal shall be taken by a majority of the votes. Such decisions 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 chairman of the arbitral tribunal and the other 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. This decision shall be binding on the parties and the arbitral tribunal shall determine its own procedures.

## **Article 9. Subrogation**

1. If one of the Contracting Parties or the designated organ of the Contracting Party makes any payment in respect of an indemnity 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 appointed organ or a legal instrument executed by it. All the rights and claims of the compensated party and recognize 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 take the place of his nationals within the limits exercised by the party that has been secured or compensated.

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 10. 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 as a result of one of the contracting parties or one of his public or local authorities or its institutions:

A. Prejudice to any of the rights and guarantees prescribed for the investor in this agreement.

B. Breach any of the international obligations and undertakings imposed on the Contracting Party arising out of this Agreement for the benefit of the investor in the territory of the other Contracting Party or failure to do what is necessary, whether intentionally or negligently.

C. Refrain from implementing an enforceable judgment that is 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 monetary compensation shall be estimated within three months from the date of the injury and shall be paid within six months from the date of the agreement on the amount of compensation. The compensation shall be estimated by the friendly agreement between the parties or by virtue of arbitrators.

## **Article 11. Scope of Application**

The provisions of this Agreement shall apply to existing investments before and after the entry into force of this Agreement and shall not apply to disputes that have arisen before they take effect.

## **Article 12. 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 Agreement in addition to the provisions of the present Convention and include provisions whether general or specific grants investments made by investors of the Contracting Party The other shall be treated more favorably than the treatment provided by the present Convention, those provisions shall be applied in lieu of the provisions of the present Convention to their more favorable treatment.

## **Article 13. Entry Into Force of the Agreement**

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

#### **Article 14. Duration and Termination of the Agreement**

This Agreement shall remain in effect for a period of ten years and shall be automatically renewed thereafter unless either Contracting Party informs the other Party in writing and by diplomatic means of its desire to terminate the Agreement six (6) months from the expiry date. For investments made during the entry into force of the Agreement. The provisions of the Agreement relating to such investments for a period of ten years after the date of termination of the Agreement, without prejudice to the right to apply the provisions of general international law.

IN WITNESS WHEREOF, the undersigned have signed this Agreement under the authority vested in them by their respective States for this purpose.

This agreement was signed in Arabic in Manama on Saturday, 28 December 2002, corresponding to 24 Shawwal 1423H, two of which have the same legal force.

For the Government of the Kingdom of Bahrain

Abdullah bin Hassan Saif

Minister of Finance and National Economy

For the Government of the Republic of Yemen

Ahmed Mohamed Soufan

Minister of Planning and Development