

AGREEMENT BETWEEN THE GOVERNMENT OF THE SULTANATE OF OMAN AND THE GOVERNMENT OF THE REPUBLIC OF FINLAND ON THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Sultanate of Oman and the Government of the Republic of Finland (hereinafter referred to as the Contracting Parties),

Desiring to intensify economic cooperation to the mutual benefit of both countries and to maintain fair and equitable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party,

Recognizing that the promotion and protection of such investments favour the expansion of economic relations between the two Contracting Parties and stimulate investment initiatives,

Have agreed as follows:

Article 1. Definitions

For the purpose of this Agreement:

1) The term "Investment" means any kind of asset, established or acquired by an investor of one Contracting Party in the territory of the other Contracting Party (host Party), in accordance with the laws and regulations of the host Party, and includes particularly, though not exclusively:

- a) Movable and immovable property as well as any other property rights, such as mortgages, liens, pledges and leases;
- b) Shares and other participation in enterprises;
- c) Claims or rights to performances having an economic value;
- d) Intellectual or industrial property rights, such as patents, copyrights, industrial designs, business names, know-how and goodwill;
- e) Rights or permits, including concessions to search for, cultivate, extract or exploit natural resources.
- f) Returns.

A change in the form in which assets are invested does not affect their character as investment. 2) The term "Returns" means the amounts yielded by an investment and particularly, though not exclusively, royalty payments or other current income.

3) The term "Investor" means:

- a) Any natural person who is a citizen of either Contracting Party in accordance with its laws and regulations; and
- b) Any legal person having its seat in the territory of either Contracting Party, or in a third country with a predominant interest of an investor of either Contracting Party.

4) The term "Territory" means the land and sea area, including seabed and subsoil, over which the Contracting Party exercises, in accordance with international law, sovereign rights or jurisdiction.

Article 2. Promotion and Protection of Investments

1) The host Party shall promote investments from the other Contracting Party and shall admit such investments in accordance with its laws and regulations.

2) The host Party shall at all times ensure fair and equitable treatment of investments from the other Contracting Party and shall not impair the management, maintenance, use, enjoyment or disposal thereof through unreasonable or discriminatory measures.

Article 3. Most Favoured Nation Provisions

1) Each Contracting Party shall in its territory accord investments of investors of the other Contracting Party treatment not less favourable than that which it accords to investments of investors of any third state.

2) Each Contracting Party shall in its territory accord to investors of the other Contracting Party, as regards management, maintenance, use, enjoyment or disposal of their investments as well as other activities connected with investments, treatment not less favourable than that which it accords to investors of any third state.

3) The treatment mentioned above shall not apply to any advantage accorded to investors of a third state by either Contracting Party based on the membership of that Contracting Party in a customs union, common market, free trade zone, regional economic agreement, or any international agreement or arrangement relating wholly or mainly to taxation, or for facilitation of border trade.

Article 4. Expropriation

1) Investments of investors of either Contracting Party shall not be nationalised, expropriated or subjected to measures having effect equivalent to nationalisation or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for a public interest. The expropriation shall be carried out under due process of law, on a non-discriminatory basis and shall be accompanied by provisions for the payment of prompt, adequate and effective compensation. Such compensation shall amount to the fair market value of the investment expropriated immediately before the expropriation, or the impending expropriation became public knowledge in such a way as to affect the value of the investment.

2) The fair market value shall be calculated in a freely convertible currency at the market rate of exchange at the moment referred to in paragraph (1) of this Article. Compensation shall also include interest at the London Interbank Offered Rate (Libor) from the date of expropriation until the date of payment.

Article 5. Compensation for Losses

1) An investor of the Contracting Party whose investments incur losses in the territory of the host Party owing to war, armed conflict, civil disturbances, a state of national emergency, revolt, riot or similar event, shall be accorded by the host Party treatment, as regards restitution, indemnification, compensation or other settlement, which is the most favourable of that which the host Party accords to its own investors or investors of any third state.

2) An investor of the Contracting Party whose investments in any of the situations referred to in paragraph (1) of this Article, experience losses resulting from requisitioning or destruction of its investment or a part thereof, by forces or authorities of the host Party, shall be accorded prompt, adequate and effective restitution.

Article 6. Transfer of Payments

1) The host Party shall allow, with respect to investments under this Agreement, the unrestricted transfer of payments in connection with investments into and out of its territory. The free transfer shall include, inter alia, the initial capital or the proceeds from the liquidation of the investment, returns, payments pursuant to a loan agreement, unspent earnings of personnel engaged from abroad, payments arising out of the settlement of a dispute and compensation under Article 4 and 5 of this Agreement.

2) Transfer under paragraph (1) of this Article shall be effected without delay and in a freely convertible currency at the prevailing market rate of exchange on the date of transfer with respect to spot transactions in the currency to be transferred.

Article 7. Subrogation

Where the Contracting Party or its designated agency makes a payment under an indemnity or guarantee it has accorded in respect of an investment in the territory of the other Contracting Party, the host Party shall recognize the assignment to the former Contracting Party of all the rights and claims resulting from such an investment, and shall recognize that the

Contracting Party or its designated agency is entitled to exercise such rights and enforce such claims by virtue of subrogation, to the same extent as the original investor.

Article 8. Settlement of Investment Disputes

- 1) Any dispute concerning an investment between one Contracting Party and an investor of the other Contracting Party shall, if possible, be settled amicably.
- 2) If such a dispute has not thus been settled within six months from the date at which amicable settlement was requested, the investor may submit the dispute to final settlement under the rules established by the Convention on the Settlement of Investment Disputes between States and Nationals of other states, opened for signature at Washington 18 March 1965.
- 3) If the rules referred to in paragraph (2) of this Article should not apply, the dispute can be submitted to an arbitration tribunal to be constituted for each individual case under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).
- 4) For the purpose of this Article, any legal person which is constituted in accordance with the legislation of one Contracting Party and in which before a dispute arises the majority of shares are owned by investors of the other Contracting Party shall be treated, in accordance with Article 25 (2) (b) of the said Washington Convention, as a legal person of the other Contracting Party.
- 5) The settlement under this Article shall be final and executed in accordance with the national law.

Article 9. Settlement of Disputes between Contracting Parties

- 1) Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should be settled through negotiations.
- 2) If such a dispute has not thus been settled within six months from the date at which negotiations were requested, it shall upon request of either Contracting Party, be submitted to an arbitration tribunal.
- 3) Such tribunal shall consist of three arbitrators. Within two months from the date on which either Contracting Party receives the written notice requesting arbitration from the other Contracting Party, each Contracting Party shall appoint one arbitrator. Those two arbitrators shall, within the subsequent two months, together select a third arbitrator who is a national of a third state which maintains diplomatic relations with both Contracting Parties. The third arbitrator shall be appointed by the two Contracting Parties as Chairman of the arbitral tribunal.
- 4) If the arbitral tribunal has not been constituted within four months from the date of the receipt of the written notice for arbitration, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of either Contracting Party or is otherwise prevented from discharging the said function, the next most senior member of the International Court of Justice who is not a national of either Contracting Party shall be invited to make the necessary appointments.
- 5) The arbitration tribunal shall determine its own procedures and take its decisions by a majority of votes. Each Contracting Party shall bear the cost of its own member and its own representation in the arbitration proceedings; the cost of the Chairman and the remaining costs shall be borne in equal parts by the Contracting Parties. The tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two Contracting Parties. The decision and awards of the arbitration tribunal shall be final and binding on both Contracting Parties.

Article 10. Application of the Agreement

- 1) This Agreement shall in no way restrict the rights and benefits which an investor of other Contracting Party in addition to the present Agreement enjoys under national or international law in the territory of the host Party.
- 2) This Agreement shall apply to all investments, whether made before or after its entry into force, but shall not apply to any dispute concerning an investment which arose or any such claim which was settled before its entry into force.

Article 11. Final Clauses

- 1) This Agreement shall enter into force on the thirtieth day which follows the day on which the Governments of the Contracting Parties have notified each other that their legal and 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 years and shall continue to remain in force thereafter for similar periods unless either Contracting Party notifies the other Contracting Party of its decision in writing to terminate this Agreement at least twelve months before its expiration.

3) In respect of investments made prior to the date when the notice of termination of this Agreement becomes effective, the provisions of Article 1 to 10 shall remain in force for a further period of twenty years from that date.

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

Done at Muscat on 27 September 1997, in two originals in the Arabic, Finnish and English languages, the three texts being equally authentic. In case of any divergence in the interpretation of the provisions of this Agreement the English text shall prevail.

For the Government of The Republic of Finland

For the Government of The Sultanate of Oman