

# Agreement between the Kingdom of Spain and the Kingdom of Bahrain for the promotion and reciprocal protection of investments

The Government of the Kingdom of Spain and the Government of the Kingdom of Bahrain (hereinafter referred to as "the Contracting Parties");

Desiring to intensify economic cooperation for the mutual benefit of both States;

For the purpose of creating favorable conditions for investments made by investors of one Contracting Party in the territory of the other Contracting Party; Y

Recognizing that the promotion and protection of investments under this Agreement will stimulate initiatives in this field,

Have agreed as follows:

## Article 1. Definitions

For the purposes of this Agreement:

1. "Investment" means all types of assets invested by investors of a Contracting Party

In the territory of the other Contracting Party in accordance with the laws and regulations of this second Contracting Party, including but not limited to the following:

A) ownership of tangible and intangible, movable and immovable property, as well as other real rights, such as mortgages, levies, pledges, usufructs and similar rights;

B) the shares, shares and obligations of a company or any other form of participation in a company or company;

C) the right to monetary contributions or any other type of benefit under a contract that has an economic value and is associated with an investment;

D) intellectual and industrial property rights; Technical processes; Know-how and goodwill;

E) rights to engage in economic and commercial activities, provided by law or under a contract, including concessions for exploration, cultivation, extraction or exploitation of natural resources.

Investments in the territory of a Contracting Party by any company of the same Contracting Party in which the investors of the other Contracting Party exercise effective ownership or control shall also be considered as investments made by investors of the second Contracting Party, provided that Carried out in accordance with the laws and regulations of the first Contracting Party.

No change in the way the assets are invested or reinvested will affect their investment character.

2. "Investor" means any national or any company of one of the Contracting Parties which makes investments in the territory of the other Contracting Party:

(A) "national" means any natural person who is a national of either Contracting Party, in accordance with the law applicable in that Contracting Party;

(B) "company" means, in respect of any Contracting Party, public limited companies and commercial associations of any kind, constituted or organized in accordance with the law in force in that Contracting Party and having its registered office in the territory of that Contracting Party; Contracting Party.

3. "Income" means the amounts produced by an investment and shall include, but not exclusively, profits, dividends, credit yields, capital gains, royalties and fees;

4. "Credit income" means income from claims of any

Class, whether or not secured by a mortgage and whether or not they incorporate a benefit-sharing clause of the debtor, and, in particular, returns on public securities and yields of bonds and debentures, including premiums and premiums linked to such securities, Bonds or bonds.

5. 'territory' means:

(A) in respect of the Kingdom of Spain, the territory of the Kingdom of Spain, as well as any area outside its territorial sea over which, in accordance with international law and its domestic law, the Kingdom of Spain Has or may have in the future sovereign jurisdiction and rights with respect to the seabed, its subsoil and its overlying waters and natural resources;

(B) in respect of the Kingdom of Bahrain, the territory of the Kingdom of Bahrain, including the territorial sea, as well as the maritime areas, seabed and subsoil on which, in accordance with international law, the Kingdom of Bahrain Has or may have in the future jurisdiction and sovereign rights.

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

1. Each Contracting Party shall, to the extent possible, promote in its territory the investments of investors of the other Contracting Party. Each Contracting Party shall admit such investments in accordance with its laws and regulations.

2. Where a Contracting Party has admitted an investment in its territory, it shall, in accordance with its laws and regulations, grant the necessary permits in respect of such investment and the execution of license agreements and technical, commercial or administrative assistance contracts. Each Contracting Party shall endeavor to issue the necessary authorizations in respect of the activity of consultants and other specialized personnel, irrespective of their nationality.

## **Article 3. Protection**

1. Investments made by investors of one Contracting Party in the territory of the other Contracting Party shall at all times be treated fairly and equitably and shall enjoy full protection and security in accordance with international law.

2. Neither Contracting Party shall in any way obstruct, through unjustified or discriminatory measures, the management, maintenance, use, enjoyment or disposal of such investments. Each part

Contracting Party shall comply with any obligation in writing in connection with investments of investors of the other Contracting Party.

## **Article 4. National Treatment and Most-favoured-nation Treatment**

1. Each Contracting Party shall grant in its territory investments made by investors of the other Contracting Party treatment no less favorable than that accorded to investments made by its own investors or by investors of any other State, whichever is most favorable to The interested investor.

2. Each Contracting Party shall grant in its territory to investors of the other Contracting Party, in respect of the management, maintenance, use, enjoyment or disposal of its investments, treatment no less favorable than that accorded to its own investors or Investors of any third State, whichever is more favorable to the investor concerned.

3. Treatment accorded under paragraphs 1 and 2 of this Article shall not be construed as obliging one Contracting Party to extend to the investors of the other Contracting Party and to its investments the benefit of any treatment, Preference or privilege resulting from:

(A) membership of, or association with, any free trade zone, customs union, economic or monetary union or similar international agreements, including other forms of regional economic organization, future or existing, or

(B) any international agreement or arrangement which relates wholly or mainly to taxes or any domestic legislation which relates wholly or mainly to taxes.

4. For the sake of greater security, the Contracting Parties consider that the provisions of this article shall be without prejudice to the right of either Contracting Party to apply different tax treatment to different taxpayers according to their fiscal residence.

## **Article 5. Expropriation**

1. Investments of investors of either Contracting Party in the territory of the other Contracting Party may not be nationalized, expropriated or subjected to any other measure having equivalent effect to nationalization or expropriation (in advance)

Expropriation"), except in the public interest, in accordance with due process of law, in a non-discriminatory manner and by the payment of prompt, adequate and effective compensation.

2. Such compensation shall correspond to the market value of the investment expropriated immediately prior to the expropriation or before the imminence of the same becomes public knowledge, whichever occurs earlier (hereinafter referred to as "valuation date").

3. Such market value shall be expressed in a freely convertible currency at the prevailing market exchange rate for that currency at the valuation date. The indemnity shall include interest at a commercial rate established on the market basis for the currency of appraisal from the date of expropriation to the date of payment. The compensation will be paid without delay, will be effectively realizable and freely transferable.

4. The affected investor shall be entitled, in accordance with the law of the Contracting Party conducting the expropriation, to a prompt review of his case by a judicial authority or other competent and independent authority of that Contracting Party, including appraisal of its investment and the payment of compensation, in accordance with the principles established in this article.

5. Where a Contracting Party expropriates the assets of a company incorporated under the laws in force in any part of its own territory and in which investors of the other Contracting Party have an interest, it shall ensure that the provisions of this article are applied in order to ensure prompt, adequate and effective compensation in respect of their investment to investors of the other Contracting Party who hold such shares.

## **Article 6. Compensation for Losses**

1. Investors of any Contracting Party whose investments in the territory of the other Contracting Party suffer losses due to war or other armed conflict, national state of emergency, revolution, insurrection or civil unrest, or any other similar event shall be accorded by the latter Contracting Party in respect of restitution, compensation or other settlement, treatment no less favorable than that which the latter Contracting Party grants to its own investors or to investors of any third State, whichever is the most favorable to the investor concerned. Payments arising therefrom shall be freely transferable.

2. Notwithstanding paragraph 1, investors of a Contracting Party

Of the situations referred to in that paragraph, suffer losses in the territory of the other Contracting Party as a result of:

A) the requisitioning of its investment or part of it by the forces or authorities of the latter; or

B) the destruction of their investment or part of it by the forces or authorities of the latter, without being required by the necessity of the situation, the latter Contracting Party will grant them a restitution or indemnity that in any case will be prompt, adequate and effective. Payments arising therefrom shall be made without delay and shall be freely transferable.

## **Article 7. Transfers**

1. Each Contracting Party shall guarantee to investors of the other Contracting Party the free transfer of all payments related to its investments. Such transfers shall include, in particular, but not exclusively:

(A) initial capital and additional amounts used to maintain or expand investment;

(B) investment income within the meaning of Article 1;

(C) funds for repayment of any loans related to an investment;

(D) the compensation provided for in Articles 5 and 6;

(E) the product obtained by the sale or total or partial liquidation of an investment;

(F) the income and other remuneration of foreign contracted personnel in relation to an investment;

(G) payments arising from the settlement of a dispute.

2. The transfers referred to in this Agreement shall be made without delay in a freely convertible currency and at the

exchange rate applicable on the date of the transfer.

## **Article 8. Application of other Provisions**

1. If the legislation of either Contracting Party or obligations arising under international law, existing or subsequently arising between the Contracting Parties in addition to this Agreement, contain rules, whether general or specific, by virtue of which it must be granted To investments made by investors of the other Contracting Party more favorable treatment than that provided for in

In this Agreement, such rules shall prevail over this Agreement to the extent that they are more favorable.

2. Conditions more favorable than those of this Agreement which one of the Contracting Parties has agreed with investors of the other Contracting Party shall not be affected by this Agreement.

3. Nothing in this Agreement shall affect the provisions established by international agreements in relation to the intellectual and industrial property rights in force on the date of their signature.

## **Article 9. Subrogation**

In the event of a Contracting Party or its designated body making a payment under an indemnity or guarantee agreement or insurance contract against non-commercial risks granted in connection with an investment by any of its investors in the territory of the Contracting Party. Another Contracting Party, the latter shall recognize the assignment of any right or credit of such investor to the former Contracting Party or its designated body and the right of the first Contracting Party or its designated body to exercise, by subrogation, such right or credit with The same scope as its predecessor in the title. This subrogation will enable the first Contracting Party or its designated body to be the direct beneficiary of any compensation or other compensation to which the investor may be entitled.

## **Article 10. Settlement of Disputes between the Contracting Parties**

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall be resolved, as far as possible, through diplomatic channels.

2. If it is not possible to settle the dispute in this way within six months from the beginning of the negotiations, it shall be submitted, at the request of either Contracting Party, to an arbitral tribunal.

3. The arbitral tribunal shall be constituted as follows: each Contracting Party shall designate one arbitrator and those two arbitrators shall elect as their President a third-country national. The arbitrators shall be appointed within a period of three months and the President within five months from the date on which either Contracting Party on its intention to refer the dispute to an arbitral tribunal.

4. If the necessary appointments have not been made within the time limits laid down in paragraph 3 of this Article, any Contracting Party may, in the absence of any other agreement, request the President of the International Court of Justice to make the necessary appointments. If the President is a national of one of the Contracting Parties or is unable to perform that function for other reasons, the Vice-President shall be urged to make the necessary appointments. If the Vice-President is a national of one of the Contracting Parties or is unable to perform such a function, he shall be urged to make the necessary appointments to the member of the International Court of Justice who follows him in seniority who is not a national of either Contracting Party.

5. The arbitral tribunal shall take its decision on the basis of the provisions contained in this Agreement and the generally accepted principles of international law.

6. Unless the Contracting Parties decide otherwise, the tribunal shall establish its own procedure.

7. The arbitral tribunal shall take its decision by a majority of votes and that decision shall be final and binding on both Contracting Parties.

8. Each Contracting Party shall bear the expenses of its own arbitrator and those related to its representation in the arbitral proceedings. All other expenses, including those of the President, shall be borne equally by the two Contracting Parties. The court may indicate in its decision, however, that one of the Contracting Parties bears a greater share of expenses.

## **Article 11. Disputes between One Contracting Party and an Investor of the other Contracting Party**

1. Disputes between an investor of one Contracting Party and the other Contracting Party relating to an obligation of the latter under this Agreement with respect to an investment of such investor shall be notified by the investor to the second Contracting Party in written form. To the extent possible, interested parties shall endeavor to resolve such disputes in an amicable manner through negotiations.

2. If these disputes can not be settled amicably within six months of the date of the written notification referred to in paragraph 1, the following may, at the option of the investor:

- To the competent court of the Contracting Party in whose territory the investment was made; or

- To an ad hoc arbitration tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL); or

- The International Center for Settlement of Investment Disputes (ICSID) established under the "Convention on the Settlement of Investment Disputes between States and Nationals of Other States", opened for signature at Washington on 18 March 1965, in the event that both Contracting Parties become members of said Convention. If a Contracting Party which is a party to the dispute has not become a Contracting State to the aforementioned Convention, the dispute shall be settled in accordance with the rules of the Supplementary Mechanism for the Administration of Conciliation, Arbitration and ICSID.

3. Arbitration shall be based on the provisions of this Agreement, in the national law of the Contracting Party in whose territory the investment was made, including rules relating to conflicts of law, and in generally accepted rules and principles of law applicable.

4. A Contracting Party may not claim as an exception that the investor has received or will receive, under a guarantee or an insurance contract, compensation or other compensation for all or part of the damages in question.

5. Arbitral decisions shall be final and binding on the parties to the dispute. Each Contracting Party undertakes to implement decisions in accordance with its national legislation.

## **Article 12. Area of application**

This Agreement shall apply to investments made by investors of either Contracting Party in the territory of the other Contracting Party both before and after the entry into force of this Agreement.

## **Article 13. Entry Into Force, Duration and Termination**

1. This Agreement shall enter into force on the date on which the Contracting Parties have notified each other of the fulfillment of their respective constitutional requirements necessary for the entry into force of international agreements.

2. This Agreement shall remain in force for an initial period of ten years. After such initial ten-year period, it shall remain in force indefinitely, unless either Contracting Party notifies the other Contracting Party in writing of its decision to terminate the Agreement. The notice of termination shall take effect one year after the date of such notice.

3. In respect of investments made before the date of termination of this Agreement, the provisions contained in Articles 1 to 12 shall continue to apply for an additional period of ten years from the date of termination thereof.

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

DONE at Madrid, on 22 May 2008, in duplicate, in Spanish, Arabic and English, all texts being equally authentic. In case of divergence in interpretation, the English text shall prevail.