

Agreement between the Italian Republic and the Great Socialist People's Libyan Arab Jamahiriya on the investment promotion and protection

The Italian Republic and the Libyan Arab Jamahiriya People's Republic, hereinafter referred to as Contracting Parties,

CONFIRMING the spirit and the dictation of the text of the Joint Declaration signed in Rome on 4 July 1998;

RECOGNIZED by the desire to overcome the negative experiences of the past and to achieve the objectives set in the framework of economic and trade cooperation for the interest of the two friendly peoples;

DESIROUS of creating a favorable climate for investments made by investors of a Contracting Party in the territory of the other Contracting Party; is

RECOGNIZING the importance of promoting and protecting investment, based on international agreements, for achieving the economic prosperity of both Contracting Parties,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement, the following expressions shall have the meanings indicated:

1. "Investments" means all kinds of assets invested before or after the agreement, including, for example:

To . Property of movable and immovable property or other property rights, real estate mortgages, bonds or bonds;

B. Shares, bonds, securities and quotas owned by companies;

C. Rights on sums of money or other rights having an economic value linked to an investment as well as rights on any monetary value commitment;

D. Industrial or intellectual property rights, including copyright, publishing and invention patents, commercial reasons and trademarks, industrial designs, industrial secrets and industrialization operations, technologies and trade names;

Is . Rights on economic actions conferred by law or by contract including concessions for the prospecting of natural resources, their extraction, exploitation and development;

F. All investments in line with the laws of the two Contracting Parties, their economic policies and their production systems, taking due account of any variation in the capital invested, so as not to affect the classification of the same, provided that such a This amendment does not affect the approvals originally granted to the capital invested.

2. "Income" means the sums earned from the investment, including in particular: profits, usufruct, dividends, royalties, and other remuneration.

3. Investor means:

To . Any natural person holding the nationality of one of the two Contracting Parties;

B. Any legal person, having its head office in the territory of one of the Contracting Parties and recognized by it, whether it is a company, a subsidiary or a foreign affiliate, a cooperative, an enterprise or a consortium, organization, association, institution or body or any enterprise or institution project Constituted in accordance with the legislation in force in the two Contracting Parties;

4. "Territory" means the territory of each of the two Contracting Parties whether it is land or sea, including the bottom of

the sea, the subsoil and the above space, and how each Contracting Party exercises its sovereignty and its jurisdiction as a matter of law international;

5. "Free use currency" means any currency convertible to the official exchange rate that can be used to make payments in international trade negotiations and which has taken place in the major international exchange markets.

Article 2. Promotion and Protection of Investments

1. The two Contracting Parties shall, in order to achieve the purpose of this Agreement, intensify and deepen mutual cooperation in the areas of promotion, protection and protection of investment by all means and possibilities.

2. The two Contracting Parties shall prepare the investment conditions suitable for the other Contracting Party in accordance with the laws and regulations in force and with all that does not conflict with this Agreement.

3. The investments of the two Contracting Parties shall at all times be accorded equal treatment; Such investments shall enjoy full and total protection and security in the territory of the other Contracting Party in accordance with the laws and regulations in force, without prejudice to this Agreement, and to international law.

Article 3. National Treatment and Most Favoured Nation Clause

1. Investments made by either of the two Contracting Parties or one of their investors in the territory of the other Contracting Party shall enjoy a favorable treatment for the treatment of investments and income of national investors and any other third country.

This treatment will also apply to the administration, exploitation, possession and availability of such investments, related activities and their profits, extending the benefits of the promotion and protection established for capital received in accordance with investment laws and regulations in force in the two Contracting Parties and in the international agreements in force concerning investments.

2. The investment and investment income referred to in paragraph 1 of this Article shall enjoy facilitations, incentives and other forms of encouragement within the limits and under the conditions laid down in the laws of both Contracting Parties. Paragraph 1 of this Article shall enjoy facilitations, incentives and other Forms of encouragement within the limits and under the conditions laid down by the laws of both Contracting Parties.

3. This Agreement does not extend to the Contracting Parties the privileges of agreements, including those to avoid double taxation, economic unions, regional conventions and free trade areas signed by any of the Contracting Parties with third countries.

Article 4. Compensation for Damages and Losses

1. Each of the Contracting Parties grants to investors of the other Contracting Party whose investments have suffered damage in their territory due to wars, any armed conflict or state of emergency, rebellion or insurrection or other similar events, treatment which will bring the situation back to the previous state by restoring what is lost or compensating the damages in no less than quantity and quality to the treatment granted by the Contracting Party to its investors or those of a third country by choosing the most favorable treatment.

Payments for indemnities will be freely transferable without undue delay.

Article 5. Free Capital Transfer, Profits and Income

1. Each of the two Contracting Parties guarantees - after the fulfillment of the tax obligations - freely and without delay, and in any case not more than twelve months, the transfer of payments abroad in relation to an investment in the same currency of originally acquired capital Convertible currency:

To . Additional capital and amounts for the maintenance and increase of investments;

B. Profits, dividends, royalties, technical assistance and fees, interest and any other income derived from the investments of the investors of each Contracting Party in the other Contracting Party;

C. All sums due to the partial or total liquidation of any investment belonging to an investor of either of the two Contracting Parties in the other Contracting Party;

D. The sums for the repayment of loans linked to the investment and its interests;

Is . Income and earnings of citizens of the two Contracting Parties employed or authorized to work in connection with an investment in the territory of the other Contracting Party;

F. Compensation referred to in art. 4 and 6, as well as any payment due by surrogate as a result of article 7 of this Agreement;

2 . The exchange rate applied to the transfers referred to in paragraph 1 of this Article shall be calculated at the official exchange rate applied on the date on which the investor requests the transfer. Paragraph 1 of this Article shall be calculated at the official exchange rate applied on the date Where the investor requests the transfer.

3 . The tax obligations referred to in paragraph 1 shall be deemed to be fulfilled when the investor has completed the procedures provided for by the law of the Contracting Party in whose territory the investment was made. Paragraph 1 shall be deemed to have been fulfilled when the investor has completed the procedures laid down in The law of the Contracting Party in whose territory the investment was made.

Article 6. Nationalization and Expropriation

1 . It shall not be possible to nationalize or expropriate in a direct or indirect manner the investments of each of the two Contracting Parties or their investors in the territory of the other Contracting Party, except for a general reason and for reasons of public utility and provided that such Measures are taken on a non-discriminatory basis, in accordance with legal provisions and procedures, and against timely and effective compensation.

2 . In accordance with this Agreement, the investments of each of the two Contracting Parties or those of the investors of the same Contracting Parties shall not be subject to measures limiting the right of ownership or possession, administration or use of such investments either definitively or temporarily If not within the limits of the law in force or on the basis of a special judgment of the competent court.

3 . Compensation will be calculated on the fair market value of the investment immediately before the expropriation decree. It shall be calculated in currency convertible to the official exchange rate applicable on the date on which nationalization or expropriation was announced or made public.

Fair market value must not be affected by any change in value caused by the reputation of the expropriation procedure prior to the decision of the measure. This value will be determined on the basis of internationally recognized rules and uses. The amount to be reimbursed must include the interest calculated on the basis of the EURIBOR standard, if applicable, from the expiration date to the date of payment.

4 . Compensation will be considered effective if it has been paid in the same currency as the foreign investor has made the investment, or any other convertible currency at the investor's choice. Compensation will be considered timely if paid without undue delay and in any Case within twelve months.

5 . If the expropriation concerns a mixed company constituted in the territory of one of the two Contracting Parties, the amount of compensation to be paid to the investor of the other Contracting Party shall be calculated on the basis of its share in that mixed company and as will be shown by Acts of its constitution.

6 . If no agreement is reached between the investor and the Contracting Party hosting the investment, the procedures for resolving investment conflicts will be used in accordance with Article 9 of this Agreement. Article 9 of this Agreement.

7 . An investor in either Contracting Party who claims that all or part of his investment has been expropriated shall have the right to a prompt review by the competent judicial or administrative authorities of the other Contracting Party in order to determine whether the compensation for the said Expropriation is in accordance with the laws and regulations of the Expropriating Party.

8 . If, as a result of the expropriation, the property has not been used in whole or in part for public purposes, the owner or his / her attorneys will be entitled to repurchase the asset at a market price.

Article 7. Subrogation

Where a Contracting Party or one of its Public Institutions grants a non-commercial risk security for an investment made by one of its investors in the territory of the other Contracting Party, the latter shall recognize the transfer of the right of such investors to the Contracting Party Or its subsidiary body and the surrogation will not go beyond the original investor right. For the transfer of payments to be made to the Contracting Party by virtue of such subrogation, Articles 4, 5 and 6 of this

Agreement shall apply.

Article 8. Disputes between the Contracting Parties

- 1 . Disputes concerning the interpretation, application or termination of this Agreement shall be made through diplomatic channels.
- 2 . If a dispute has not been resolved within six months of the date on which it has been notified in writing by one of the Contracting Parties to the other Contracting Party, it shall be submitted, at the initiative of one of the Contracting Parties, to an ad hoc arbitration tribunal As envisaged in the following paragraphs of this Article.
- 3 . The Arbitral Tribunal shall be constituted, in each specific case, as follows: each Contracting Party shall appoint an arbitrator and the two arbitrators so appointed shall agree to appoint a third-country national who shall be designated by the two Contracting Parties as President of the Arbitral Tribunal. All referees shall be appointed within six months of the date on which one of the two Contracting Parties has notified the other Party of their intention to submit the dispute to arbitration.
- 4 . If the terms of paragraph 3 of this Article have not been respected, the Contracting Parties may, in the absence of other arrangements, request the President of the International Court of Justice to make appointments. If he is a citizen of either of the two Contracting Parties or for other reasons he is not able to proceed with the nomination, he will be asked for the Vice-President. If the Vice-President of the Court is either a national of either Contracting Party or for any other reason can not make appointments, he shall be the senior member of the International Court of Justice who is not a national of both Contracting Parties to proceed to designazione.comma 3 Of this Article, the Contracting Parties may, in the absence of other arrangements, request the President of the International Court of Justice to make appointments. If he is a citizen of either of the two Contracting Parties or for other reasons he is not able to proceed with the nomination, he will be asked for the Vice-President. If the Vice-President of the Court is either a national of either Contracting Party or for any other reason can not make appointments, he shall be the senior member of the International Court of Justice who is not a national of both Contracting Parties to designate.
- 5 . The Arbitral Tribunal shall decide by majority vote. Its decisions will be final and binding on the Contracting Parties.

With regard to its proceedings, the Arbitral Tribunal will apply the UNCITRAL rules and will apply the rules of this Agreement and those of international law with regard to the subject matter of the dispute. The home of the Arbitration will be L'Aja (Holland).

Article 9. Disputes between Investors of a Contracting Party and the other Contracting Party

- 1 . Any disputes arising between one of the two Contracting Parties and investors of the other Contracting Party concerning investments, including those relating to the amount of compensation, shall be settled as far as is possible in a friendly manner.
- 2 . Where an investor and an entity of one of the two Contracting Parties have entered into an agreement on the settlement of disputes, the procedure laid down in that agreement shall apply.
- 3 . If a dispute can not be resolved in a friendly manner within six months of the date of the written request for settlement, the investor may, at his option, submit the dispute:
 - (a) to the competent court of the Contracting Party in whose territory the investment was made;
 - (b) to the International Investment Disputes Center (ICSID) referred to in the Convention on the Settlement of Disputes between States and Citizens of Other States, signed in Washington on 18 March 1965, where the Contracting Parties They have joined you;
 - (c) to an arbitral tribunal ad hoc in accordance with the arbitration rules of the United Nations Commission on International Commercial Law (UNCITRAL). The Host Contracting Party therefore agrees to accept the reference to these arbitration rules.

Once you have chosen one of the above contingency arrangements, the investor will no longer be able to follow the other two.

- 4 . No Contracting Party shall pursue through diplomatic channels any question concerning the judicial or arbitral proceedings until the proceedings have been concluded and a Contracting Party has not complied with or has complied with the decision of the Judicial Authority or the Arbitral Tribunal.

Article 10. Application of other Provisions

- 1 . Where a matter is governed by both this Agreement and any other international agreement to which the Contracting Parties are signing or other general provisions of international law, the provisions most favorable to the Contracting Parties and their investors shall apply.
- 2 . Where the treatment accorded by a Contracting Party to investors of the other Contracting Party in accordance with its laws and regulations or other provisions or specific contracts or authorizations and investment arrangements is more favorable than that accorded under This Agreement will apply the most favorable treatment.
- 3 . After the investment has been made, any modification of the laws, regulations, acts or economic policy measures governing, directly or indirectly, investment will not be applied retrospectively.

Article 11. Scope of this Agreement

- 1 . The provisions of this Agreement shall apply irrespective of whether the two Contracting Parties have diplomatic or consular relations.
- 2 . The provisions of this Agreement shall apply to investments made or to be effected prior to the entry into force of this Agreement in accordance with the laws and regulations in force on the date of entry into force of this Agreement.

Article 12. Entry Into Force and Duration

- 1 . This Agreement shall enter into force on the date of the exchange of the instruments of ratification in accordance with the procedures in force in the two Contracting Parties.
- 2 . This Agreement shall remain in force for ten years and may be automatically extended for a similar period unless one of the two Contracting Parties denies giving written notice to the other Contracting Party, one year before its expiry, its intention to terminate Or to modify its provisions. Upon expiration of the initial period of 10 years, this Agreement may be denounced at any time by either Contracting Party at the earliest notice of twelve months.
- 3 . The provisions of this Agreement will remain in force, even if it is amended or terminated in accordance with the preceding paragraph, for investments in progress and falling within the scope of this Agreement in accordance with its provisions for a period of Five more years from the date of termination of the Agreement.

FOR THE ITALIAN REPUBLIC

Lamberto Dini

Minister of Foreign Affairs

FOR THE GREAT JAMAHIRIYA POPULAR SOCIALIST ARABA

Abdurrahman Mohamed Shalgam

Secretary of the Popular Committee

General for Foreign Relations and International Cooperation