

Agreement between the Government of the Kingdom of Sweden and the Government of the Sultanate of Oman on the Promotion and reciprocal Protection of Investments

The Government of the Kingdom of Sweden and the Government of the Sultanate of Oman (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 the economic relations between the two Contracting Parties and stimulate investment initiatives,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

(1) The term "investment" shall comprise every kind of asset, invested by an investor of one Contracting Party in the territory of the other Contracting Party, provided that the investment has been made in accordance with the laws and regulations of the other Contracting Party, and shall include in particular, though not exclusively:

- a) Movable and immovable property as well as any other property rights, such as mortgage, lien, pledge, usufruct and similar rights;
- b) Shares and other kinds of interest in companies;
- c) Title to money or any performance having a financial value;
- d) Intellectual property rights, technical processes, trade names, know-how, good will and other similar rights; and
- e) Business concessions conferred by law, administrative decisions or contracts, including concessions to search for, cultivate, extract or exploit natural resources.

A change in the form in which assets are invested does not affect their character as investment.

(2) Goods that under a leasing agreement are placed at the disposal of a lessee in the territory of one Contracting Party by a lessor being a national of the other Contracting Party or a legal person having its seat in the territory of that Contracting Party, shall be treated not less favourably than an investment.

(3) The term "investor" shall mean:

- a) Any natural person who is a national of a Contracting Party in accordance with its laws; 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 "returns" shall mean the amounts yielded by an investment and in particular, though not exclusively, capital gains, profit, interest, dividends, royalties and other fees.

(5) The term "territory" shall mean the territory of each Contracting Party as well as the exclusive economic zone, the 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) Each Contracting Party shall, subject to its general policy in the field of foreign investment, promote in its territory investments by investors of the other Contracting Party and shall admit such investments in accordance with its legislation.

(2) Each Contracting Party shall ensure, subject to its laws and regulations, that the investment made in its territory, shall enjoy the full protection of this Agreement.

(3) Each Contracting Party shall at all times provide fair and equitable treatment of the investments by investors of the other Contracting Party and shall not impair the management, maintenance, use, enjoyment or disposal thereof by unreasonable measures, such as e.g. restrictions of purchase of raw materials, components and units, auxiliary materials, energy and fuel as well as means of production and operation of all kinds. In connection with the procurement of such materials and services as mentioned above, the investor shall have the right to freely select the supplier on the most favourable terms available. The investor shall also have the right to freely select the supplier on the most favourable terms available. To obtain the material and services referred to, the investor shall also have the right to freely select the suppliers based on the best contracting terms and to freely sell products within the country and abroad, in accordance with the laws, regulations and rules applicable in this regard.

(4) In connection with the transport of goods or of personnel associated with an investment, the investor shall have the right to freely select the carrier. In cases where permission is required for such transport, this shall be granted in accordance with the applicable laws and regulations in this regard.

(5) Without prejudice to the laws and regulations relating to the entry and stay of aliens, individuals working for an investor of one Contracting Party, as well as members of their household, shall be permitted to enter into, remain on and leave the territory of the other Contracting Party for the purpose of carrying out activities associated with investments in the territory of the latter Contracting Party.

Article 3. Most Favoured Nation Provisions

(1) Each Contracting Party shall in its territory accord investments and returns of investors of the other Contracting Party treatment not less favourable than that which it accords to investments and returns 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 accords 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, multilateral international economic agreement or an agreement on avoidance of double taxation, or for facilitation of frontier trade.

Article 4. Expropriation

(1) Investments of investors of either Contracting Party shall not be nationalized, expropriated or subjected to measures having effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for 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 becomes public knowledge and shall include interest from the date of expropriation. The compensation shall be effectively realizable and transferable without delay in a freely convertible currency.

(2) The provisions of Paragraph 1) of this Article shall also apply where a Contracting Party expropriated the assets of a company which is incorporated or constituted under the law in force in any part of its own territory, and in which investors of the other Contracting Party own shares.

(3) Investors of either Contracting Party who have incurred losses of their investments in the territory of the other Contracting Party due to war or other armed conflict, a state of national emergency, revolt or riot shall be accorded, with respect to restitution, indemnification, compensation or other settlement, a treatment which is not less favourable than that accorded to its own investors or investors of any third state. Resulting payments shall be transferable in a freely convertible currency without undue delay.

Article 5. Transfer

(1) Each Contracting Party shall allow the transfer in a freely convertible currency of:

a) The returns;

b) The proceeds from a total or partial liquidation of any investment by an investor of the other Contracting Party;

c) Funds in repayment of loans related to an investment; and

d) The earnings of individuals related to an investment; not being its nationals, who are allowed to work in connection with an investment in its territory and other amounts appropriated for the coverage of expenses connected with the management of the investment.

(2) The Contracting Parties undertake to accord to transfers referred to in Paragraph 1) of this Article a treatment not less favourable than that accorded to such transfers originating from investments made by investors of any third state.

(3) The transfer shall be allowed without delay and, in any event, within a period of time not exceeding one month from the date on which the request for the transfer is made.

(4) Any transfer referred to in this Agreement shall be effected at the official exchange rate prevailing on the day of the transfer.

Article 6. Subrogation

If one Contracting Party or one of its designated agency makes a payment to any of its investors under a guarantee it has made in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall, without prejudice to the rights of the former Contracting Party under Article 7, recognize the transfer of any right or title of such an investor to the former Contracting Party or its designated agency and the subrogation of the former Contracting Party or its designated agency to any such right or title.

Article 7. Settlement of Disputes between Contracting Parties

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall, if possible, be settled amicably.

(2) If a dispute cannot thus be settled within six months it shall, upon the request of either Contracting Party, be submitted to an ad hoc arbitral 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. These two members shall, within further 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 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 relevant arrangement, 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 most senior member of the Court, who is not a national of either Contracting Party shall be invited to make the necessary appointments.

(5) The arbitral tribunal shall determine its own procedures. The tribunal shall reach its decision in accordance with the provisions of this Agreement and the principles of international law and other relevant international agreements recognized by both Contracting Parties.

(6) The arbitration tribunal shall reach its decision by majority vote. Such decision shall be final and binding. Each Contracting Party shall bear the cost of the member appointed by that Contracting Party as well as the costs of its own arbitrator and its counsel in the proceedings; the expenses of the Chairman and the remaining costs shall be borne in equal parts by both Contracting Parties unless the tribunal decides otherwise.

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) Each Contracting Party hereby consents to submit to the International centre of Settlement of investment Disputes for settlement by conciliation or arbitration under the Washington Convention of 18 March 1965 on the Settlement of Investment Disputes between States and Nationals of the other States any such dispute which has not been settled within six months following the date, on which the dispute has been raised by either party. If the parties to such a dispute have different opinions as to whether conciliation or arbitration is the more appropriate method of settlement, the investor shall have the right to choose.

(3) 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.

Article 9. Application of other Rules

The provisions of this Agreement shall in no way restrict the rights and benefits which an investor of one Contracting Party enjoys under national or international law in the territory of the other Contracting Party.

Article 10. Applicability

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 claim concerning an investment which was settled before its entry into force.

Article 11. Entry Into Force, Duration and Termination

(1) The Contracting Parties shall notify each other when the constitutional requirements for the entry into force of this Agreement have been fulfilled. This Agreement shall enter into force thirty days after the date of receipt of the last notification.

(2) This Agreement shall remain in force for a period of ten years and shall continue to remain in force thereafter for another similar period or periods unless either Contracting Party notifies the other Contracting Party of its decision to terminate this Agreement 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 Articles 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 13 July 1995 in duplicate in the Swedish, Arabic and English languages, the three texts being equally authentic. In case of divergence in the interpretation of the provisions of this Agreement the English text shall prevail.

For the Government of the Kingdom of Sweden

For the Government of the Sultanate of Oman