

# **Agreement on the Promotion and Protection of Investments between the Government of the Sultanate of Oman and the Government of the Republic of the Sudan**

The Government of the Sultanate of Oman and the Government of the Republic of the Sudan (hereinafter referred to as "the Contracting Parties", each of which is referred to as the "Contracting Party");

Desiring to expand and strengthen the existing economic cooperation between the two countries in a manner that serves their mutual interest and creating the harmonious climate that leads to increased investments by the investors of one of the Contracting Parties in the territory of the other Contracting Party;

Aware that the encouragement and protection of investments will stimulate commercial exchanges and the transfer of capital and technology between the two countries to serve their economic development,

Have agreed as follows:

## **Article 1. Definitions**

For the purposes of this Agreement:

1) The term "investment" means any type of asset that is executed as an investment in accordance with the laws and regulations of the contracting party who accepts the investment in its territory and includes, but is not limited to:

- A. Movable and immovable property and any other rights in kind, such as mortgages and guarantees, and any similar rights.
- B. Shares, share premiums and any other types of interests in companies.
- C. Debt required in cash or required in implementation of any contractual obligation of economic value.
- D. Returns.
- E. Copyright and industrial property rights (such as patents, licenses, trademarks, and industrial designs), technical operations, trade names, and trade goodwill.
- F. Commercial concessions conferred by law or under a comprehensive contract the concessions to search for, cultivate, extract or use natural resources.

Any change in the form in which the assets are invested or reinvested should not affect their eligibility as investments, provided that this variation is not inconsistent with the legislation of the contracting party in whose territory the investment is made.

2) The term "national" means the natural person who holds the nationality of either of the Contracting Parties.

3) The term company means any legal person established in the territory of one of the Contracting Parties in accordance with the laws of that contracting party.

4) The term "returns" means all funds resulting from investment or reinvestment, including investment in technical assistance and services such as profits, royalties, capital gains, dividends, fees and interest.

5) The term "Territory" means the territory of each Contracting Party, according to the definition contained in its laws, in addition to the adjacent coastal areas over which any Contracting Party exercises sovereign or state rights in accordance with the provisions of international law.

## **Article 2. Investment Protection**

Each Contracting Party shall, in accordance with its legislation and the provisions of this Agreement, in its territory and marine region accept, encourage and protect investments made by citizens or companies from the other Contracting Party.

### **Article 3. Fair and Equitable Treatment**

Each Contracting Party shall, in accordance with the principles of international law, grant a fair and equitable treatment to the investments of citizens or companies of the other party in its territory.

### **Article 4. Investment Treatment**

Each Contracting Party in its territory shall provide citizens and companies of the other Contracting Party with respect to their investment and investment-related activities, treatment that is no less favourable than that which it provides to citizens or companies of a third country. This treatment does not include the privileges granted by one of the parties to the citizens and companies of a third country thanks to his participation in / or his affiliation to a free trade zone, customs union, common market or any other form of regional economic cooperation.

The provisions of this article do not apply to tax matters.

### **Article 5. Expropriation**

1) Investments made by citizens or companies from one of the Contracting Parties enjoy full protection and security in the territory of the other Contracting Party.

2) It is not permissible to nationalize the investments of citizens or legal persons from either of the Contracting Parties, expropriating them or subjecting them to any procedures that have the same effects of nationalization or expropriation (hereinafter referred to as expropriation) in the territory of the other Contracting Party unless the property is expropriated for the public interest for a purpose related to the internal requirements of the Contracting Party made without discrimination.

Any expropriation measures that can be taken must include prompt and adequate and effective compensation that is calculated based on the value of the prevailing investments in the market immediately before the expropriation decision is announced or before the decision becomes known to the public. And if the market value cannot be ascertained easily, compensation is determined according to the generally accepted principles for valuation and on the basis of fair principles that take into account - among other things - invested capital, depreciation, capital that was previously transferred abroad, and the replacement value and other related items. This compensation includes interest calculated on the basis of the prevailing interest rate between banks in London known as LIBOR applied to the currency in which the investment was made, from the date of expropriation until the date of payment.

The said compensation must be implemented immediately and paid without delay and it must be freely transferable.

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

Citizens and companies from one of the Contracting Parties who are exposed to an investment accused because of the war or any other armed conflict or revolution or declaration of emergency at the national level or the rebellion that takes place in the territory of the other Contracting Party, must enjoy the treatment from the aforementioned party that is no less favorable than that which it grants to its citizens or companies, or to the citizens or companies of any third country, whichever is better for the concerned investors.

### **Article 7. Transfers**

1. The Contracting Party in whose territory the private investment of citizens or companies from the other Contracting Party is established shall guarantee these citizens and companies - after performing their financial obligations - the free transfer of the following:

A. Interest, dividends, dividends and other current income.

B. Royalties and fees.

C. Payment of legally contracted loans.

D. The value resulting from partial or total liquidation of the investment or from expropriation, including capital gains on the

invested capital.

E. Compensation for expropriation or losses as described in Articles 5 and 6 above.

F. Incomes of citizens or companies of any of the Contracting Parties who are authorized to work in the territory of the other Contracting Party as a result of an approved investment.

G. Capital and any capital additions that are used to maintain existing investments or their increase or expansion.

2. The transfers referred to in the preceding paragraphs shall be made immediately at the official rate of the currency prevailing on the date of the transfer.

## **Article 8. Subrogation**

If one of the Contracting Parties, as a result of a guarantee granted with respect to an investment made in the territory of the other Contracting Party, makes payments to his citizens or companies, then the aforementioned party will have in this case the full rights of settlements regarding the rights and actions of that citizen or that company. The said payments shall not affect the rights of the beneficiary of the guarantee to resort to the International Center for Settlement of Investment Disputes (ICSID).

## **Article 9. Other Commitments**

Investments that are the subject of a special obligation for one of the Contracting Parties in relation to the citizens or companies of the other Contracting Party must be subject - without prejudice to the provisions of this Agreement - to the terms of the mentioned commitment if the obligation includes provisions that are more favourable than what is contained in this Agreement.

## **Article 10. Settlement of Disputes between an Investor and a Contracting Party**

Any dispute arising out of investments between one of the Contracting Parties and a citizen or company of the other Contracting Party shall be settled amicably between the two parties concerned.

If the dispute is not settled within a period of six months from the date of its raised, and upon the request of either party to the dispute, it is referred to arbitration by the International Center for Settlement of Investment Disputes, which was established under the Agreement on Investment Dispute Settlement between countries and citizens of other countries and signed in Washington on March 18, 1965.

## **Article 11. Disputes between the Contracting Parties**

1) Disputes relating to the interpretation or application of this Agreement shall be settled, if possible, through negotiation through diplomatic channels.

2) If the dispute is not settled within six months from the date on which the matter was raised by either of the Contracting Parties, then it is permissible, and at the request of either Contracting Party, to refer the dispute to an arbitral tribunal.

3) The arbitral tribunal shall be constituted as follows for each specific case:

Each Contracting Party shall appoint one arbitrator, provided that the two appointed arbitrators, in turn, appoint a third arbitrator in agreement with each other, who will be a citizen of a third country that has diplomatic relations with both Contracting Parties, as president of the arbitral tribunal.

All arbitrators shall be appointed within a period of two months from the date of notifying one of the Contracting Parties of the other Contracting Party of his desire to submit the dispute to arbitration.

4) If the arbitrators were not appointed during the period specified in paragraph (3) of this period, then either of the two Contracting Parties - in the absence of another agreement - may request the President of the International Court of Justice to make the necessary appointments. If the president happens to be a citizen of either of the two Contracting Parties or finds what prevents him from performing the aforementioned task, then the member of the International Court of Justice next in seniority who is not a citizen of either of the Contracting Parties is required to make the necessary appointments.

5) The arbitral tribunal shall render its judgments by majority vote, and its judgments shall be final and binding for the Contracting Parties, and the tribunal shall establish its own procedures. It also, at the request of either of the Contracting

Parties, interprets the rulings it issues. Legal expenses, including arbitrators' fees, shall be borne equally by the Contracting Parties unless the arbitral tribunal decides otherwise in special circumstances.

## **Article 12. Entry Into Force**

- 1) This agreement shall enter into force as of the date of the last notification in which either of the Contracting Parties notifies the other Contracting Party in writing through the diplomatic channels that it has fulfilled the legal procedures necessary for the entry into force of this Agreement.
- 2) This Agreement will remain in effect for a period of ten years and will continue to apply after that for a similar period or periods if one of the Contracting Parties did not notify the other Contracting Party in writing of his desire to terminate it, and that it is at least a year before the expiration date.
- 3) With regard to investments made before the termination of the Agreement, the provisions of Articles 1 to 11 shall remain in effect for an additional period of twenty years from the date of construction of the Agreement.

IN WITNESS WHEREOF the undersigned being fully authorized by their respective governments, have signed this Agreement.

This Agreement was written in Muscat on this day of the month of Rehab in the year 1420 AH / corresponding to 25.10.1999 AD in two originals in the Arabic language both having equal value.

For the Government of the Republic of Sudan

For the Government of the Sultanate of Oman