

Bilateral Investment Treaty between The Government of the Republic of Tunisia And the Government of the Sultanate of Oman

The Government of the Republic of Tunisia And the Government of the Sultanate of Oman

Hereinafter referred to as the Contracting Parties

Desiring to consolidate their economic relations and intensify the cooperation between both countries in support of the development of both countries,

Convinced that the protection of investments under a bilateral agreement will foster special economic initiatives and will support the prosperity of both countries,

Realizing the necessity of granting natural and legal persons from each Contracting Party fair and equitable treatment with regards to investments in the territory of the other Contracting Party,

Have agreed as follows:

Article 1. Definitions

For the purpose of this agreement, the following terms shall mean:

Investments: all types of gains earned or recognized in the host country, in accordance with the applicable laws and regulations in that country. 'Investments' shall include particularly, not exclusively, the following: 1. Movable property, real estate and any other ownership right, as well as related guarantees such as mortgages, privileges and other liens;

2. Values, stocks, shares and company bonds;

3. Debts and any service for a return under a contract;

4. Intellectual property rights and non-material elements related to commercial assets;

5. Commercial concession rights granted under a law or contract, including rights related to the extraction, exploitation and exploration for natural resources, which grants the beneficiary a legal capacity for a certain period.

Returns: amounts generated by an investment including, not exclusively, all profits, interests, and other returns from an investment.

Nationals: natural persons holding the nationality of a Contracting Party, as well as legal persons whose headquarter is located in the territory of the Contracting Party and wherein it holds predominant interest.

Territory: natural persons holding the nationality of a Contracting Party, as well as legal persons whose headquarter is located in the territory of the Contracting Party and wherein it holds predominant interest. a) With respect to the Republic of Tunisia: its territory including the regional sea, and the areas over which the Contracting Party exercises, in accordance with international law provisions, its sovereignty rights, including marine areas and its air space.

b) With respect to the Sultanate of Oman: its territory including the regional sea, and the areas over which the Contracting Party exercises, in accordance with international law provisions, its sovereignty rights, including marine areas and its air space.

Article 2. Promotion and Protection of Investments

1) Each Contracting Party shall admit and encourage in its territory, and in accordance with its legislation, investments made by any national from the other Contracting Party.

- 2) Each Contracting Party shall provide full protection to investments made in its territory by nationals of the other Contracting Party. These investments shall also receive fair treatment in accordance with the applicable laws in the state. Such treatment does not include the privileges granted by either Contracting Party to nationals of a third state under its membership or association with a customs union, free trade zone or any other treaty establishing economic cooperation based on special ties.
- 3) Each Contracting Parties shall provide the necessary facilities and permits for the entry, exit, residence and work for investors and those whose work is permanently or temporarily connected to the investment, such as experts, administrative staff, technicians and workers, in accordance with laws and procedures applicable in the host country.
- 4) Investments made by nationals of either Contracting Party in the territory of the other Contracting Party shall not be expropriated or subjected to discriminatory measures having an effect equivalent to expropriation, except for a public purpose related to the internal needs of this Contracting Party and against fair, adequate and immediate compensation. Such compensation shall amount to the fair market value of the expropriated investment at the time of its expropriation. Payment shall be made immediately without delay, and shall be freely transferrable in a convertible currency. The person whose ownership of the investment has been expropriated shall have the right to an immediate legal judgment under the law of the Contracting Party that expropriated it. Investments shall be valued in accordance with the principles stated in this article.

Article 3. Compensation for Losses

If investments of nationals of either Contracting Party suffer losses in the territory of the other Contracting Party owing to war or other military action, or public civil unrest such as revolutions, sedition, or acts of violence of a general nature having a similar effect, the host party of the investment that suffered the damage shall commit to providing the damaged treatment accorded to its own nationals who suffered similar losses or treatment received by nationals of any third State, whichever is more favorable to the investor.

Article 4. Transfer of Investments and Returns

Each Contracting Party shall allow the transfer of the following without delay, and in any convertible currency:

- a) Net profits, interests or other current returns generated from investments of investors of the other Contracting Party.
- b) Proceeds from the full or partial liquidation of an investment, in addition to the value of compensation due on these investments.
- c) Loan installments invested in its territory and re-exported abroad.
- d) Wages of nationals of the other Contracting Party who are licensed to work in its territory under an investment.

Article 5. Transfer of Investments and Returns

- 1) Disputes arising between the Contracting Parties regarding the interpretation and application of this agreement shall, as far as possible, be settled through diplomatic channels.
- 2) Disputes arising between either Contracting Party and a national of the other Contracting Party with regards to his investments in the territory of the former Contracting Party shall, as far as possible, be settled amicably;
- 3) If the disputes could not be settled in the previously mentioned manner, either Contracting Party may present the dispute to an arbitration tribunal composed of three members. Each party to the dispute shall appoint one arbitrator and the two arbitrators shall appoint a third arbitrator as their chairman, who is to be a national of a third state.
- 4) If one of the Contracting Parties fails to appoint its arbitrator and has not proceeded to do so within two months after an invitation from the other party to make such an appointment, the latter party may invite the International Court of Justice to make the necessary appointment.
- 5) If the two arbitrators are unable to agree over their choice of the third arbitrator two months following their appointment, either party to the dispute may invite the President of the International Court of Justice to make the necessary appointment.
- 6) If, in the cases provided for in Paragraphs 4 and 5 of this Article, the President of the International Court of Justice is prevented from discharging the said function or is a national of either Contracting Party, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is prevented from discharging the said function or is a national of

either Contracting Party, 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.

7) The arbitral tribunal shall determine its procedural rules and shall take its decision by a majority of votes. Such decision shall be binding on both Contracting Parties. Each Contracting Party shall bear the costs of its member on the arbitral tribunal, as well as the costs for its representation in the arbitration proceedings. The costs of the chairman as well as any other costs shall be borne in equal parts by the two Contracting Parties.

8) Investors of either Contracting Party may file, before the domestic judiciary of the other Contracting Party host to the investment, any dispute of a legal nature that may arise between them and the Contracting Party with respect to investments made in the latter's territory. However, if an investor of either Contracting Party elects to file a case before the domestic courts of the other Contracting Party, he shall not be permitted to then file the same before domestic courts in the country to which he belongs or before any aforementioned arbitration body.

Article 6. Subrogation of Nationals by Their Contracting Parties

If either Contracting Party makes payments to its nationals under a guarantee it has undertaken towards an investment in the territory of the other Contracting Party, the latter shall recognize, and without prejudice to the former Contracting Party's rights as per Article 5, the transfer of all rights and claims to the first Contracting Party, whether the subrogation is under a law or contract. Moreover, the host party shall recognize the subrogation of the first Contracting Party of such rights and claims (transferred rights) to the same extent that was available to the original holder of these rights. The provisions of Paragraphs 2 and 4 of Article 2 and Articles 3 and 4 shall apply to the transfer of payments due to the concerned Contracting Party as a result of the subrogation, as the case may be.

Article 7. Entry Into Force

This agreement shall enter into force after each Contracting Party notifies the other that the necessary legal procedures necessary for the same have been undertaken.

Article 8. Duration and Termination

This agreement shall remain in force for a period of ten years and shall be automatically renewed if neither Contracting Party notifies the other Contracting Party in writing of its desire to terminate it. This notification is to take place twelve months before the termination date of the agreement. The agreement shall remain in force for a period of another ten years starting from its termination date for investments made during the validity of the agreement, where investment related international law principles shall apply after the elapse of this period.

Signed in Tunisia on 10 Rabie Al Thani 1412, corresponding to 19 October 1991.

Done in two originals in Arabic, both being equally legally authentic.

For the Government of the Republic of Tunisia Hamadi Al Khuwaini Secretary of State to the Minister of Foreign Affairs in Charge of Maghreb Affairs

For the Government of the Sultanate of Oman Haitham Bin Tareq Bin Taimour Undersecretary of Ministry of Foreign Affairs