

AGREEMENT BETWEEN THE CZECH REPUBLIC AND THE KINGDOM OF SAUDI ARABIA FOR THE ENCOURAGEMENT AND RECIPROCAL PROTECTION OF INVESTMENTS

The Czech Republic and the Kingdom of Saudi Arabia (hereinafter referred to as the "Contracting Parties"),

Desiring to intensify economic cooperation between both Contracting Parties,

Intending to create favorable conditions for investments by investors of either Contracting Party in the territory of the other Contracting Party,

Recognizing that the reciprocal promotion and protection of such investments are apt to stimulate private business initiative and to increase the prosperity of both Contracting Parties,

Have agreed as follows:

Article 1.

For the purpose of this Agreement:

1. The term "investment" means every kind of asset, owned or controlled by an investor of a Contracting Party in the territory of the other Contracting Party according to its legislation and in particular, but not exclusively includes: a) Movable and immovable property as well as any other rights in rem, such as mortgages, liens and pledges, usufructs and similar rights;

b) Shares, stocks and debentures of companies and other kinds of rights or interests in companies as well as securities issued by a Contracting Party or any of its investors;

c) Claims to money such as loans or to any performance having an economic value, associated with an investment;

d) Intellectual property rights, such as copyrights, patents, industrial designs, technical processes, know-how, trademarks, trade and business secrets, trade names and good-will;

e) Any right conferred by law or under public contract or any licenses, permits or concessions issued according to law.

Any extension or alteration of the form in which assets are invested or reinvested shall not affect their classification as investment, provided that they are consistent with the legislation of the Contracting Party in the territory of which the investment is made.

2. The term "returns" means the amounts yielded by an investment, in particular, profits, dividends, royalties, capital gains or any similar fees or payments;

3. The term "investor" means: a) In respect of the Czech Republic: I. A natural person having the nationality of the Czech Republic in accordance with its applicable law; or

II. Any entity incorporated or constituted in accordance with, and recognized as legal person by its laws, having the permanent seat in its territory

b) In respect of the Kingdom of Saudi Arabia: I. Natural persons possessing the nationality of the Kingdom of Saudi Arabia in accordance with the law of the Kingdom of Saudi Arabia;

II. Any entity having legal personality and constituted in accordance with the laws of the Kingdom of Saudi Arabia and having its head office in its territory such as corporations, enterprises, cooperatives, companies, partnerships, offices, establishments, funds, organizations, business associations and other similar entities irrespective of whether or not they are

of limited liability;

III. Its public financial institutions and authorities such as the Saudi Arabian Monetary Agency, public funds and other similar governmental institutions existing in Saudi Arabia which are created in accordance with its legislation;

Making or having made an investment in the other Contracting Party's territory.

4. The term "territory" means: a) In respect of the Czech Republic, the territory of the Czech Republic over which it exercises sovereignty, sovereign rights and jurisdiction in accordance with international law;

b) In respect of the Kingdom Saudi Arabia the zones within the land boundaries, marine and submarine zones, airspace and the areas of the exclusive economic zone and the continental shelf over which the Kingdom of Saudi Arabia exercises sovereignty, sovereign or jurisdictional rights under international law.

Article 2.

1. Each Contracting Party shall in its territory promote as far as possible investments by investors of the other Contracting Party and admit such investments in accordance with its legislation. It shall in any case accord such investments fair and equitable treatment.

2. Neither Contracting Party shall in any way impair by arbitrary or discriminatory measures the management, maintenance, use, enjoyment or disposal of investments in its territory of investors of the other Contracting Party.

Article 3.

1. Each Contracting Party shall grant investments once admitted and investment returns of the investors of the other Contracting Party a treatment not less favorable than that accorded to investments and investment returns of investors of any third state.

2. In accordance with its laws and regulations, each Contracting Party shall grant investments once admitted and investment returns of the investors of the other Contracting Party a treatment not less favorable than that accorded to investments and investment returns of its investors.

3. Each Contracting Party shall accord the investors of the other Contracting Party in connection with the management, operations, maintenance, use, enjoyment or disposal of investments or with the means to assure their rights to such investments like transfers and indemnification or with any other activity associated with this in its territory, treatment not less favorable than the treatment it accords to its investors or to the investors of a third state, whichever is more favorable.

4. The provisions of paragraphs 1, 2 and 3 of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party and their investments the benefit of any treatment, preference or privilege which may be extended by the former Contracting Party to the investors of a third state by virtue of its membership of a customs, economic or monetary union, a common market, a free trade area or other forms of regional economic cooperation, or an international agreement or reciprocity agreement of that customs, economic or monetary union, common market or free trade area.

5. The treatment granted under this Article shall not relate to advantages which either Contracting Party accords to investors of a third State or to the investments or returns of such investors by virtue of a double taxation agreement or other agreement regarding matters of taxation or to domestic legislation regarding taxation.

Article 4.

1. Investments by investors of either Contracting Party shall enjoy full protection and security in the territory of the other Contracting Party.

2. Investments by investors of either Contracting Party shall not be expropriated, nationalized, or subjected to any other measure, either permanent or temporary, the effects of which would be tantamount to expropriation or nationalization (hereinafter referred to as "expropriation") by the other Contracting Party except for the public interest of that Contracting Party, provided that the expropriation is not discriminatory and is in accordance with domestic laws of general application and against prompt, adequate and effective compensation.

Such compensation shall be equivalent to the value of the expropriated investment immediately before the date on which the actual or threatened expropriation has become publicly known. The compensation shall be paid without delay and shall

carry a rate of return determined on the basis of the prevailing market rate of return from the date of expropriation until the date of payment; it shall be effectively realizable and freely transferable. 3. The investor affected shall have a right to prompt review of the legality of such expropriation and the amount of compensation by a judicial or other independent authority of that Contracting Party in whose territory the investment has been made, in accordance with the principles set out in this Article.

Article 5.

1. Investors of either Contracting Party whose investments suffer losses in the territory of the other Contracting Party owing to war or other armed conflict, revolution, a state of general emergency, or revolt, shall be accorded treatment not less favorable by such other Contracting Party than that accorded by the latter Contracting Party to its own investors or to the investors of a third state as regard restitution, indemnification, compensation or other valuable consideration. Such payments shall be freely transferable.

2. This Agreement shall not preclude the application by either Contracting Party of measures necessary for the maintenance of public order, the fulfilment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests which may include interests deriving from its membership of a customs, economic or monetary union, a common market or a free trade area.

Article 6.

1. If a Contracting Party or its designated agency makes a payment to its own investors under a guarantee it has accorded in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognize:

- a) The assignment of any right or claim by the investor to the former Contracting Party or its designated agency, as well as,
- b) That the former Contracting Party or its designated agency is entitled by virtue of subrogation to exercise the rights and enforce the claims of that investor and shall assume the obligations related to the investment.

2. The subrogated rights or claims shall not exceed the original rights or claims of the investor.

Article 7.

1. Without prejudice to measures of general application, which are applied neither arbitrarily nor discriminatorily, adopted by a customs, economic or monetary union, a common market or a free trade area of which a Contracting Party is a member, each Contracting Party shall guarantee to investors of the other Contracting Party the free transfer of payments in connection with investments and investment returns they hold in the territory of the other Contracting Party, in particular:

- a) The principal and additional amounts to maintain or increase the investment;
- b) The returns;
- c) The amounts in repayment of loans;
- d) The proceeds from the liquidation or the sale of the whole or any part of the investment;
- e) The compensation provided for in Article 4 and 5;
- f) Payments arising out of the settlement of a dispute under Article 11;
- g) Earnings and other remuneration of personnel engaged from abroad who are employed and allowed to work in connection with an investment.

2. Transfers under this Article shall be made without delay at the prevailing rate of exchange on the date of transfer. It shall be made to the country designated by the claimants concerned and in any freely convertible currency accepted by the claimants.

3. In the absence of prevailing rate of exchange, the rate of exchange shall correspond to the cross rate – obtained from those rates which would be applied by the International Monetary Fund for conversions of the currencies concerned into Special Drawing Rights.

4. A transfer shall be deemed to have been made "without delay" within the meaning of this Article if effected within such period as is normally required for the completion of transfer formalities. The said period shall commence on the day on

which the relevant request has been submitted and may, except for the measures stated in paragraph 1 of this Article, on no account exceed two months.

Article 8.

1. If the legislation of either Contracting Party or its obligations under international law existing at present or established hereafter between the Contracting Parties in addition to this Agreement contain a regulation, whether general or specific, entitling investments by investors of the other Contracting Party to a treatment more favourable than that provided for by this Agreement, such regulation shall to the extent that it is more favourable prevail over this Agreement in this context.
2. If the treatment to be accorded by one Contracting Party to investors of the other Contracting Party in accordance with specific provisions of contracts is more favourable than that accorded by the Agreement, the more favourable shall be accorded.

Article 9.

The provisions of this Agreement shall apply to future investments made by investors of one Contracting Party in the territory of the other Contracting Party, and also apply to investments made prior to its entry into force by investors of either Contracting Party in the territory of the other Contracting Party which are consistent with the latter's legislation. However, the provisions of this Agreement shall not apply to any dispute concerning an investment which arose, or to claims which had been settled, before its entry into force.

Article 10.

1. Disputes between the Contracting Parties concerning the interpretation or application of the Agreement should, as far as possible, be settled amicably through consultation, mediation or conciliation by the governments of the two Contracting Parties.
2. If a dispute cannot thus be settled, within six months in the ways prescribed above, it shall upon the request of either Contracting Party be submitted to an arbitration tribunal.
3. Such arbitration tribunal shall be constituted ad hoc as follows: each Contracting Party shall appoint one member, and these two members shall agree upon a national of a third state as their Chairman to be appointed by the governments of the two Contracting Parties. Such members shall be appointed within two months, and such Chairman within three months from the date on which either Contracting Party has informed the other Contracting Party that it intends to submit the dispute to an arbitration tribunal.
4. If the periods specified in paragraph 3 above have not been observed, either Contracting Party may, in the absence of any other 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 if he is otherwise prevented from discharging the said function, the Vice-President should make the necessary appointments. If the Vice-President is a national of either Contracting Party or if he, too, is prevented from discharging the said function, the member of the court next in seniority who is not a national of either Contracting Party should make the necessary appointments.
5. The arbitration tribunal shall reach its decisions by a majority of votes. Such decisions shall be final and binding upon the parties to the dispute. Each Contracting Party shall bear the cost of its own member and the cost of counselling in the arbitration proceedings. The cost of the Chairman and the remaining costs shall be borne in equal parts by the Contracting Parties. The arbitration tribunal may make a different regulation concerning costs. In all other respects, the arbitration tribunal shall determine its own procedure.

Article 11.

1. Disputes concerning investments between a Contracting Party and an investor of the other Contracting Party, in connection with these investments in the territory of the former Contracting Party, should be amicably settled as far as possible by consultation or negotiation.
2. If the dispute cannot be settled in the way prescribed in paragraph 1 of this Article within six months of the date when the request for the settlement has been submitted, the investor shall be entitled to submit the dispute, at his choice, for settlement to the competent court of law of the Contracting Party in whose territory the investment was made, or to the arbitration to:

a) The International Centre for Settlement of Investment Disputes, established under the Convention on the Settlement of Investment Disputes between States and Nationals of other States opened for signature at Washington D.C. on 18 March 1965;

b) Ad hoc arbitral tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL); or

c) Any other form of dispute settlement agreed upon by the parties to the dispute.

3. Each Contracting Party hereby consents to the submission of investment dispute to international arbitration. However, if the dispute is submitted in accordance with paragraph 2 to the competent Court of Law of the Contracting Party, the investor cannot at the same time seek the international arbitration.

4. If the investor chooses to file for arbitration, the Contracting Party agrees not to request the exhaustion of local settlement procedures.

5. At any stage of the arbitration proceedings or of the execution of an arbitral award, none of the Contracting Parties involved in a dispute shall be entitled to raise as an objection the fact that the investor who is the opposing party in the dispute has received compensation totally or partly covering his losses pursuant to the guarantee provided for in Article 6 of this Agreement.

6. The arbitral tribunal on deciding the dispute, shall take into account:

- The law in force of the Contracting Party concerned;
- The provisions of this Agreement, and other relevant Agreements between the Contracting Parties;
- The provisions of special agreements relating to the investment;
- The general principles of international law as may be applicable.

7. The arbitral awards shall be final and binding on both parties to the dispute and shall be enforceable in accordance with the domestic law.

Article 12.

Each Contracting Party may propose to the other Contracting Party consultations on any matter relating to this Agreement. These consultations shall be held at a place and at a time agreed upon through diplomatic channels.

Article 13.

1. Each Contracting Party shall notify the other Contracting Party through diplomatic channels of the completion of the constitutional procedures required concerning the entry into force of this Agreement which shall enter into force thirty days after the date of the second notification. It shall remain in force for a period of ten years and shall remain in force thereafter for an unlimited period. After the expiry of the period of ten years, this Agreement may be denounced in writing at any time by either Contracting Party giving twelve months notice.

2. In respect of investments made prior to the date of termination of this Agreement, the provisions of Articles 1 to 12 shall continue to be effective for a further period of fifteen years from the date of termination of this Agreement.

Done at Riyadh on November 18, 2009 corresponding to: 1st DHU Al-Hijah, 1430 in duplicate in the Czech, Arabic and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Czech Republic

For the Kingdom of Saudi Arabia