Agreement between the Republic of Estonia and the United Arab Emirates on Promotion and Reciprocal Protection of Investments

The Republic of Estonia and the United Arab Emirates (hereinafter the "Contracting Parties");

Desiring to promote greater economic co-operation between them, with respect to investments made in accordance with laws and regulations by investors of one Contracting Party in the territory of the other Contracting Party;

Recognising that agreement on the promotion and reciprocal protection to be accorded to such investment will stimulate the flow of capital and the economic development of the Contracting Parties;

Agreeing that a stable framework for investments will maximise effective utilisation of economic resources and improve living standards;

Understanding that promotion of such investment requests co-operative efforts of the investors of one Contracting Party and the other Contracting Party;

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investor" means in respect of either Contracting Party:

a. a natural person, who is a national of a Contracting Party in accordance with its laws and regulations and who makes an investment in the territory of the other Contracting Party;

b. a legal entity which is incorporated under the laws and regulations of that Contracting Party and is the owner, possessor or shareholder of an investment in the territory of the other Contracting Party;

c. government of a Contracting Party.

2. The term "investment" means every kind of asset invested by investors of one Contracting Party in the territory of the other Contracting Party in accordance with its laws and regulations and shall include in particular:

a. movable and immovable property as well as any other rights, such as mortgages, pledges, usufructs and similar rights;

b. stocks, shares and other forms of participation in companies;

c. returns reinvested, debentures, claims to money or any other rights having financial value related to an investment;

d. intellectual property rights, as defined in the multilateral agreements concluded under the auspices of the World Intellectual Property Organization, in as far as both Contracting Parties are parties to them, including copyrights and related rights, industrial property rights, trademarks, patents, industrial designs and technical processes, rights in plants varieties, know-how, trade secrets, trade names and goodwill;

e. rights to engage in economic and commercial activities conferred by law, by administrative act or by virtue of a contract. Natural resources shall not be covered by this Agreement.

Any change of the form in which assets are invested or reinvested shall not affect their character as an investment, provided that such change is not contrary to the approvals granted, if any, to the assets originally invested.

3. The term "returns" means income deriving from an investment and includes, in particular, but not exclusively profits, dividends, capital gains, interests, royalties and any other fees.

4. The term "freely convertible currency" shall mean any currency that is widely used in international transactions and is traded in principal exchange markets.

5. The term "territory" means in respect to:

a. the Republic of Estonia: the land territory and the territorial sea of the Republic of Estonia, as well as those maritime areas adjacent to the external boundary of the territorial sea, including the seabed and subsoil of either of the above territories, over which the Republic of Estonia exercises, in accordance with international law, sovereign rights and jurisdiction.

b. the United Arab Emirates: the territory of the United Arab Emirates, its territorial sea, airspace and submarine areas over which the United Arab Emirates exercises in accordance with international law and the law of the United Arab Emirates sovereign rights; including the Exclusive Economic Zone and the mainland and islands under its jurisdiction in respect of any activity carried on in its water, seabead and subsoil in connection with the exploration for or the exploitation of the natural resources by virtue of its law and international law.

Article 2. Promotion and Encourgement of Investments

1. Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make investments in its territory and shall admit such investments in accordance with its laws and regulations.

2. In order to encourage mutual investment flows, each Contracting Party shall endeavour as far as possible to inform the other Contracting Party, at the request of either Contracting Party of the investment opportunities in its territory.

Article 3. Protection of Investments

1. Investments and returns of investors of either Contracting Party made in accordance with its laws and regulations shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Contracting Party.

2. Neither Contracting Party shall hamper, by arbitrary or discriminatory measures, the development, management, maintenance, use, expansion, sale and if it is the case, the liquidation of such investments.

3. In accordance with its laws and regulations, each Contracting Party shall as far as possible publish, or otherwise make publicly available, its laws and regulations that pertain to investments.

4. Each Contracting Party shall in accordance with its laws and regulations ensure to investors of the other Contracting Party the right of access to its courts of justice, administrative tribunals and agencies and all other judicial authorities.

In case of liquidation of an investment, the proceeds from liquidation shall be accorded the same protection and treatment.

Article 4. National and Most Favoured Nation Treatment

1. Each Contracting Party shall accord in its territory to investments and returns of investors of the other Contracting Party a treatment no less favourable than that which it accords to investments and returns of its own investors, or to investments and returns of investors of any third State, whichever is more favourable to the investors concerned.

2. Each Contracting Party shall accord in its territory to the investors of the other Contracting Party with regard to acquisition, operation, development, management, maintenance, use, expansion, sale or other disposal of their investment, a treatment which is no less favourable than that which it accords to its own investors or to investors of any third State, whichever is more favourable to the investors concerned.

3. The most favoured nation treatment shall apply to the pre-establishment to extent it is done in accordance with the laws and regulations of a Contracting Party relating to the establishment or acquisition of investment and being addmitted accordingly.

4. Neither Contracting Party shall in its territory impose mandatory measures on investments by investors of the other Contracting Party, concerning the purchase of materials, means of production, operation, transport, marketing of its products or similar orders having unreasonable or discriminatory effects. This paragraph shall not apply to measures taken in accordance with the laws and regulations in the course of government procurement of goods and services at any level of the government of the Contracting Party.

5. Notwithstanding any other bilateral investment agreement the Contracting Parties have signed with other States before or after the entry into force of this Agreement, the most favoured nation treatment shall not apply to procedural or judicial matters.

6. The provisions of paragraph 1 and 2 of this Article shall not be construed so as to oblige one Contracting Party to extend

to the investors of the other Contracting Party the benefit of any treatment, preference or privilege which may be extended by the former Contracting Party by virtue of:

a. any existing or future customs union or economic or monetary union, free trade area or similar international agreements to which either of the Contracting Party is or may become a party in the future;

b. any international agreement or arrangement, wholly or partially related to taxation.

Article 5. Compensation for Damage or Loss

1. When investments made by investors of either Contracting Party suffer loss or damage owing to war or other armed conflict, civil disturbances, state of national emergency, revolution, riot or similar events in the territory of the other Contracting Party they shall be accorded by the latter Contracting Party treatment, as regards restitution, compensation or other settlement, not less favourable than the treatment that the latter Contracting Party accords to its own investors or to investors of any third State, whichever is more favourable to the investors concerned.

2. Without prejudice to paragraph 1 of this Article, investors of one Contracting Party who in any of the events referred to in that paragraph suffer damage or loss in the territory of the other Contracting Party resulting from:

a. requisitioning of their property or part thereof by its forces or authorities;

b. destruction of their property or part thereof by its forces or authorities which was not caused in combat or was not required by the necessity of the situation,

shall be accorded prompt, adequate and effective compensation or restitution for the damage or loss sustained during the period of requisitioning or as a result of destruction of their property.

Resulting payments shall be made in freely convertible currency and be freely transferable without delay.

Article 6. Expropriation

A Contracting Party shall not expropriate or nationalise directly or indirectly in its territory an investment of an investor of the other Contracting Party or take any measures having equivalent effect (hereinafter referred to as "expropriation'") except if the following conditions occur simultaneously:

a. for a purpose which is in the public interest,

b. on a non-discriminatory basis,

c. in accordance with due process of law, and

d. accompanied by payment of prompt, adequate and effective compensation.

2. Compensation shall amount to the fair market value of the investment expropriated immediately before the expropriation or impending expropriation became known, whichever is the earlier.

3. Where the fair market value cannot be ascertained, the compensation shall be determined in equitable manner taking into account all relevant factors and circumstances, such as the capital invested, the nature and duration of the investment, replacement, book value and goodwill.

4, Compensation shall be paid without delay, be effectively realisable and freely transferable.

5. An investor of a Contracting Party affected by the expropriation carried out by the other Contracting Party shall have the right to prompt review of its case, including the valuation of its investment and the payment of compensation in accordance with the provisions of this Article, by a judicial authority or another competent and independent authority of the latter Contracting Party.

6. Where a Contracting Party expropriates the assets of a legal entity that is constituted in its

territory according to its laws and regulations and in which investors of the other Contracting Party participate, it shall ensure that the provisions of this Article are applied in a way that it guarantees such investors adequate and effective compensation.

Article 7. Transfers

1. In accordance with laws and regulations in force in the territory of the Contracting Party, each Contracting Party shall ensure that all payments relating to an investment in its territory of an investor of the other Contracting Party may be freely transferred into and out of its territory without unreasonable delay. Such transfers shall include, in particular:

a. initial capital and additional amounts to maintain or increase an investment;

b. returns;

c. payments made under a contract, including repayments pursuant to a loan agreement;

d. proceeds from the sale or liquidation of all or any part of an investment;

e. payments of compensation under Articles 5 and 6 of this Agreement;

f. payments under Article 8 of this Agreement;

g. payments arising out of the settlement of an investment dispute;

h. earnings and other remuneration of personnel engaged from abroad in connection with an investment.

2. Each Contracting Party shall ensure that the transfers under paragraph 1 of this Article are made without unreasonable delay in a freely convertible currency, at the market rate of exchange prevailing on the date of transfer and under the laws and regulations in force in the territory of the Contracting Party where investments have been made. In the absence of a market for foreign exchange, the rate to be used shall be the most recent exchange rate for the conversions of currencies into Special Drawing Rights.

3. Notwithstanding paragraph 1 and 2 of this Article, a Contracting Party may in accordance with its laws and regulations, in good faith and in equitable and non-discriminatory manner temporarily prevent the transfers to apply its laws and regulations relating to:

a. protection of creditors in bankruptcy proceedings; and

b. criminal offences.

Article 8. Subrogation

1. If one Contracting Party or its designated agency (for the purpose of this Article: the "guarantor') makes a payment under an indemnity given in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognise:

a. the assignment to the guarantor by law or by legal transaction of all the rights and claims of the party indemnified; and

b. that the guarantor is entitled to exercise such rights and enforce such claims by virtue of subrogation, to the same extent as the party indemnified, and shall assume the obligations related to the investment.

3. The guarantor shall be entitled in all circumstances to:

a. the same treatment in respect of the rights, claims and obligations acquired by it, by virtue of the assignment; and

b. any payments received in pursuance of those rights and claims as the party indemnified was entitled to receive it by virtue of this Agreement, in respect of the investment concerned and its related returns.

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

4. Notwithstanding paragraph 1 of this Article, subrogation shall take place in the Contracting Party only after the approval of the competent authority of that Contracting Party, if such approval is required.

Article 9. Settlement of Disputes between a Contracting Party and an Investor of the other Contracting Party

1. An investor that has a dispute with a Contracting Party should initially attempt to settle it amicably through negotiations.

2. To start negotiations, the investor shall deliver to the Contracting Party a written notice. The notice shall specify:

a. the name and address of the disputing investor;

b. the provisions of this Agreement alleged to have been breached;

c. the factual and legal basis for the claim; and

d. the remedy sought and the amount of damages claimed.

3. When required by the Contracting Party, if the dispute cannot be settled amicably within six months from the moment of receipt of the written notice, it shall be submitted to the competent authorities of that Contracting Party or arbitration centers thereof, for conciliation.

4. If the dispute cannot be settled amicably within six months from the moment of receipt of the written notice or from the start of the conciliation referred to in paragraph 3 of this Article, the dispute shall upon the request of the investor be settled as follows:

a. by a competent court of the Contracting Party in whose territory the investment is made; or

b. by arbitration by the International Centre for Settlement of Investment Disputes (ICSID), established by the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature in Washington on 18th March 1965. In case of arbitration, each Contracting Party, by this Agreement irrevocably consents in advance, even in the absence of an individual arbitral agreement between the Contracting Party and the investor, to submit any such dispute to this Centre. This consent implies the renunciation of the requirement that the internal administrative or judicial remedies should be exhausted; or

c. by arbitration by three arbitrators in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), as amended by the last amendment accepted by both Contracting Parties. In case of arbitration, each Contracting Party, by this Agreement irrevocably consents in advance, even in the absence of an individual arbitral agreement between the Contracting Party and the investor, to submit any such dispute to the tribunal mentioned.

5. The award shall be final and binding. Each Contracting Party shall ensure the recognition and enforcement of the arbitral award in accordance with its laws and regulations.

6. A Contracting Party which is a party to a dispute shall not, at any stage of conciliation or arbitration proceedings or enforcement of an award, raise the objection that the investor who is the other party to the dispute has received an indemnity by virtue of an insurance in respect of all or a part of its losses.

7. When the investor and any designated entity of a Contracting Party or its local government have concluded an agreement concerning the investments of the investor, the dispute settlement procedure stipulated therein shall apply.

Article 10. Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall be settled as far as possible by negotiations.

2. If a dispute under paragraph 1 of this Article cannot be settled within six months it shall upon the request of either Contracting Party be submitted to an arbitral tribunal of three members.

3. Such arbitral tribunal shall be constituted ad hoc. Each Contracting Party shall appoint one member and these two members shall agree upon a national of a third State as their chairman. Such members shall be appointed within two months from the date one Contracting Party has informed the other Contracting Party of its intention to submit the dispute to an arbitral tribunal, the chairman of which shall be appointed within two further months.

4. If the periods specified in paragraph 3 of this Article are not observed, 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 of the International Court of Justice is a national of either of the Contracting Parties or if he is otherwise prevented from discharging the said function, the Vice-president or in case of his inability the member of the International Court of Justice next in seniority according to the Rules of the Court should be invited under the same conditions to make the necessary appointments. The appointed judge should be a national of a State that has diplomatic relations with the Contracting Parties.

5. The arbitral tribunal shall establish its own rules of procedure unless the Contracting Parties decide otherwise.

6. The arbitral tribunal shall reach its decision in virtue of this Agreement and pursuant to the tules of international law. It shall reach its decision by a majority of votes; the decision shall be final and binding.

7. Each Contracting Party shall bear the costs of its own member and of its legal representation in the arbitration proceedings. The costs of the chairman and the remaining costs shall be borne in equal parts by both Contracting Parties. The tribunal may, however, in its award determine another distribution of costs.

Article 11. Application of other Rules

Without prejudice to Article 4, if the legislation of either Contracting Party or obligations between the Contracting Parties under international law existing at present or established hereafter between the Contracting Parties, in addition to this Agreement, contain rules whether general or specific, entitling investments made by investors of the other Contracting Party to a treatment more favourable than is provided for by this Agreement, such rules shall to the extent that they are more favourable to the investor, prevail over this Agreement.

Article 12. Application of the Agreement

This Agreement shall apply to investments made prior to or after the entry into force of this Agreement, but shall not apply to any investment dispute that may have arisen nor any claim that was settled before its entry into force.

Article 13. Consultations

The Contracting Parties shall, on the request of either, hold consultations on any matter relating to the implementation or application of this Agreement. These consultations shall be held on the proposal of one of the Contracting Parties at a place and a time to be agreed upon through diplomatic channels.

Article 14. Limitation of Benefits

1. Benefits of this Agreement shall not be available to an investor of a Contracting Party, if the main purpose of the acquisition of the nationality of that Contracting Party was to obtain benefits under this Agreement that would not otherwise be available to the investor.

2. Prior to denying the benefits of this Agreement, the denying Contracting Party shall notify the other Contracting Party.

Article 15. Entry Into Force, Amendments, Duration and Termination

1. This Agreement shall enter into force on the date of receipt of the latter notification through diplomatic channels by which either Contracting Party notifies the other Contracting Party that its internal legal requirements for the entry into force of this Agreement have been fulfilled.

2. This Agreement may be amended in writing by the mutual consent of the Contracting Parties. Such amendments shall enter into force according to the same procedure as the Agreement.

3. This Agreement shall remain in force for a period of ten years and shall be extended thereafter for following ten years periods unless, one year before the expiration of the initial or any subsequent period, either Contracting Party notifies the other Contracting Party of its intention to terminate the Agreement. In that case, the termination shall become effective by the expiration of current period of ten years.

4. In respect of investments made prior to the date when the termination of this Agreement becomes effective, the provisions of this Agreement shall continue to be effective for a period of ten years from the date the termination of this Agreement became effective.

5. This Agreement shall apply irrespective of the existence of diplomatic or consular relations between the Contracting Parties.

In witness whereof, the undersigned duly authorised have signed this Agreement. Done at Abu Dhabi on 20 April 2011 in duplicate, in the Estonian, Arabic and English languages, all three texts being equally authentic. In a case of divergence of interpretation, the English text shall prevail.

For the Republic of Estonia

Urmas Paet

For the United Arab Emirates

Abdullah bin Zayed Al Nahyan

Protocol

At the signing of the Agreement between the Republic of Estonia and the United Arab Emirates on the promotion and reciprocal protection of investments (hereinafter referred to as, "the Agreement") the undersigned have agreed upon the following provisions which form an integral part of the Agreement.

1. With reference to entire Agreement it is understood that the breach of any private contract concluded by an investor does not constitute the breach of this Agreement.

2. For the purposes of paragraph 4 of Article 8 in the case of the United Arab Emirates the competent authority means the Ministry of Finance.

3. With reference to paragraph 4 of Article 9 it is understood that in the case of the United Arab Emirates the investor is required to submit his request to settle the dispute under paragraph 3 of Article 9, before he is allowed to submit the dispute according to paragraph 4 of Article 9.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Abu Dhabi on 20 April 2011 in duplicate, in the Estonian, Arabic and English languages, all three texts being equally authentic. In a case of divergence of interpretation, the English text shall prevail.

For the Republic of Estonia

Urmas Paet

For the United Arab Emirates

Abdullah bin Zayed Al Nahyan