

# **AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF CROATIA AND THE GOVERNMENT OF THE STATE OF QATAR ON THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS**

The Government of the Republic of Croatia and the Government of the State of Qatar (hereinafter referred to as the "Contracting Parties");

Desiring to promote greater economic cooperation between them, with respect to investment by investors of one Contracting Party in the territory of the other Contracting Party;

Recognizing that agreement upon the treatment to be accorded to such investment will stimulate the flow of private capital, technology, and the economic development of the Contracting Parties;

Agreeing that a stable framework for investment will maximize effective utilization of economic resources and improve living standards;

Having resolved to conclude the Agreement on the promotion and reciprocal protection of investments;

Have agreed as follows:

## **Article 1. Definitions**

For the purposes of this Agreement and unless stated otherwise in this Agreement the following terms shall have the corresponding meanings:

1. The term "investment" means every kind of assets 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, though not exclusively: a) Movable and immovable property as well as any other rights in rem such as mortgages, liens, pledges, usufructs and similar rights;
- b) Stock, shares, debentures and other forms of participation in companies;
- c) Claims to money or to any performance having economic value, including every loan granted for the purpose of creating economic value;
- d) Intellectual property rights, as defined in the multilateral agreements concluded under the auspices of the World Intellectual Property Organisation, in as far as both Contracting Parties are parties to them, including, but not limited to, copyrights and neighbouring 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 and by virtue of a contract, including concessions to search for, cultivate, extract or exploit natural resources.

Any change of the form in which assets are invested or reinvested shall not affect their character as an investment.

2. The term "investor" means in respect of either Contracting Party: a) Natural person, a national of a Contracting Party who makes an investment in the territory of the other Contracting Party;
- b) A legal person incorporated, constituted or otherwise duly organised in accordance with the laws and regulations of one Contracting Party, having its seat and performing real business activity in the territory of the same Contracting Party and making an investment in the territory of the other Contracting Party.
- c) With respect to the State of Qatar: Government, Governmental Agencies, Corporations, Companies, firms, or business associations incorporated or constituted under the law in force in the State of Qatar and having their headquarters in the

territory of the State of Qatar.

3. The term "returns" means income deriving from an investment and includes, in particular though not exclusively, profits, dividends, interests, capital gains, royalties, patents licence fees, and other fees. Returns reinvested shall have the same protection enjoyed by an investment.

4. The term "freely convertible currency" means a currency which is widely traded in international foreign exchange markets and widely used in international transactions.

5. The term „territory" means

With respect to the Republic of Croatia: the territory of the Republic of Croatia as well as those maritime areas adjacent to the outer limit of the territorial sea, including the seabed and subsoil over which the Republic of Croatia exercises, in accordance with international law, its sovereign rights and jurisdiction.

With respect to the State of Qatar: the territory of the State of Qatar and its maritime area, including the territorial waters and airspace above it, economic free zone, and the continental shelf on which it owns sovereign rights and jurisdiction in accordance with its laws in force and the Public International Law.

## **Article 2. Promotion and Admission 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 to inform the other Contracting Party, at the request of either Contracting Party, on the investment opportunities in its territory.

3. Each Contracting Party shall grant, whenever necessary, in accordance with its laws and regulations, without delay, the permits required in connection with the activities of consultants or experts engaged by investors of the other Contracting Party.

4. Each Contracting Party shall, subject to its laws, regulations and procedures affecting the entry, stay and work of natural persons, examine in good faith and give due consideration, regardless of nationality to requests of key personnel including top managerial and technical persons who are employed for the purposes of investments in its territory, to enter, remain temporary and work in its territory. Immediate family members (spouse and minor children) of such key personnel shall also be granted similar treatment with regard to the entry and temporary stay in the host Contracting Party.

## **Article 3. Protection of Investments**

1. Each Contracting Party shall, in accordance with this Agreement, extend in its territory protection and security to investments and returns of investors of the other Contracting Party. Neither Contracting Party shall hamper, by arbitrary or discriminatory measures, the development, management, maintenance, use, enjoyment, expansion, sale and if it is the case, the liquidation of such investments. Either Contracting Party shall observe any other obligation it may have entered into with regard to investments of investors of the other Contracting Party.

2. Investments or returns of investors of either Contracting Party in the territory of the other Contracting Party shall be accorded fair and equitable treatment in accordance with provisions of this Agreement.

## **Article 4. National Treatment and Most Favoured Nation Treatment**

1. Neither Contracting Party shall accord in its territory to investments and returns of investors of the other Contracting Party a treatment less favourable than that which it accords to investments and returns of its own investors, or investments and returns of investors of any other third State, whichever is more favourable to the investors concerned.

2. Neither Contracting Party shall accord in its territory to the investors of the other Contracting Party, as regards management, maintenance, enjoyment, use or disposal of their investment, a treatment which is 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 provisions of paragraphs 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 union, free trade area, regional 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, completely or partially related to taxation.

## **Article 5. Expropriation**

1. A Contracting Party shall not expropriate or nationalise directly or indirectly an investment in its territory of an investor of another Contracting Party or take any measure or measures having equivalent effect (hereinafter referred to as "expropriation") except:

- 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 be paid without delay.

3. Compensation shall be equivalent to the real market value of the expropriated investment immediately before the expropriation occurred. The real market value shall not reflect any change in value occurring because the expropriation had become publicly known earlier.

4. Compensation shall be fully 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 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.

## **Article 6. 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 which is not a result of the activities of the Contracting Party to which the investors belong, civil disturbances, revolution, riot or similar events in the territory of the latter Contracting Party, they shall be accorded by the latter Contracting Party, treatment, as regards restitution, indemnification, compensation or any other settlement, not less favourable than that that the latter Contracting Party accords to its own investors or to investors of any third State, whichever is most favourable to the investors concerned.

2. Without prejudice to paragraph 1 of this Article, the investor of one Contracting Party who in any of the events referred to in that paragraph suffers 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 action or was not required by the necessity of the situation,

Shall be accorded a prompt restitution, and where applicable prompt, adequate and effective compensation for damage or loss sustained during the period of requisitioning or as a result of destruction of their property. Resulting payment shall be made in freely convertible currency without delay. 3. An investor of the Contracting Party whose investment suffer damage or loss in accordance with paragraph 2 of this Article, have the right to prompt review by a judicial or other competent authority of the other Contracting Party of the valuation of its investments and payment of compensation in accordance with principles set out in paragraph 2 of this Article.

## **Article 7. Transfers**

1. 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 delay. Such transfers shall include, in particular, though not exclusively:

- a) The initial capital and additional amounts to maintain or increase an investment;

- b) Returns;
  - c) Payments made under a contract including 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, 6 and 8 of this Agreement;
  - f) Payments arising out of the settlement of an investment dispute;
  - g) Earnings and other remuneration of personnel engaged from abroad in connection with an investment.
2. The transfers under paragraph 1 of this Article shall be permitted in the currency of the original investment or any other convertible currency. Such transfer shall be made at the prevailing market rate of exchange on the date of transfer.
3. Each Contracting Party shall ensure that the interest at the commercial rate established on the market bases for the currency in question is calculated together with compensation for the period starting from the occurrence of events under Articles 5, 6 and 8 until the date of transfer of payment and payment will be effected in accordance with provisions of paragraphs 1 and 2 of this Article.

## **Article 8. Subrogation**

If a Contracting Party or its designated agency makes a payment under an indemnity, guarantee or contract of insurance against non-commercial risks given in respect of an investment of an investor in the territory of the other Contracting Party, the latter Contracting Party shall recognize the assignment of any right or claim of such investor to the former Contracting Party or its designated agency and the right of the former Contracting Party or its designated agency to exercise by virtue of subrogation any such right and claim to the same extent as its predecessor in title.

## **Article 9. Application of other Obligations**

1. This Agreement shall not affect:
- a) Laws and regulations, administrative practices or procedures or administrative or judicatory decisions of either Contracting Party;
  - b) Obligations under International Law or;
  - c) Obligations assumed between Contracting Parties, including those contained in an investment agreement or an investment authorization.
2. Whenever the above entitles investments by investors of either Contracting Party to a treatment more favourable than is provided for in this Agreement, such rule shall, to the extent that it is more favourable, prevail over the present Agreement.

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

1. Any legal dispute under the provisions of this Agreement, arising directly from an investment between either Contracting Party and an investor of the other Contracting Party shall be settled amicably among themselves.
2. If such disputes cannot be settled according to the provisions of paragraph 1 of this Article within six months from the date of request in writing for settlement, the investor who is a party to the dispute may submit the dispute to:
- a) The competent court of the host Contracting Party for decision; or
  - b) The International Center for the Settlement of Investment Disputes established under the Convention on the Settlement of Investment Disputes between States and Nationals of other States of March 18, 1965 done in Washington, D.C., if this Convention is applicable to the 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 this Centre; or
  - c) An Ad Hoc Arbitral Tribunal.

Either Party to the investment dispute who chooses one of the above mentioned ways of the settlement of dispute, can not choose the two other ways. 3. The Ad Hoc Arbitral Tribunal specified under paragraph 2 (c) shall be established as follows:

- a) Each party to the dispute shall appoint one arbitrator, and the two arbitrators thus appointed, shall select by mutual agreement a third arbitrator, who must be a citizen of a third country, and who shall be appointed as Chairman of the Tribunal by the two parties. All the arbitrators must be appointed within two months from the date of notification by one party to the other party of its intention to submit the dispute to arbitration.
- b) If the periods specified in paragraph 3(a) herein above have not been respected, either party, in the absence of any other agreement, shall invite the President, or in his absence, the next senior official of the International Chamber of Commerce who is not a national of either Contracting Party to make the necessary appointments.
- c) The Ad Hoc Arbitral Tribunal shall reach its decisions by a majority of vote. These decisions shall be final and legally binding upon the parties and shall be enforced in accordance with the domestic law of the Contracting Party to the dispute. The decisions shall be taken in conformity with the provisions of this Agreement.
- d) The Tribunal shall interpret its award and give reasons and bases of its decision at the request of either party. Unless otherwise agreed by the parties, the venue of Arbitration will be at the Hague (Netherlands).

Subject to the above, the Tribunal shall follow the Arbitration Rules of the United Nations Commission for International Trade Law (UNCITRAL), 1976.

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

1. The two Contracting Parties shall strive with good faith and mutual cooperation to reach a fair and quick settlement of any dispute arising between them concerning interpretation or application of this Agreement. In this connection the two parties hereby agree to enter into direct objective negotiations to reach such settlement. If the disagreement has not been settled within a period of six months from the date on which the matter was raised by either Contracting Party, it may be submitted at the request of either Contracting Party to an Arbitral Tribunal composed of three members.
2. Within a period of two months from the date of receiving the said request each Contracting Party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint, within a period of two months and with the approval of both Contracting Parties, a national of a third country as Chairman of the Tribunal.
3. If within the periods specified in paragraph (2) of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement invite the President of the International Court of Justice to make any necessary appointments. If otherwise prevented from discharging the said function, the Vice-President shall be invited to 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 International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointments.
4. The Arbitral Tribunal shall reach its decision by a majority of votes. Such decisions shall be binding on both Contracting Parties. Each Contracting party shall bear the cost of its own member of the tribunal and of its representation in the arbitral proceedings; the cost of the Chairman and the remaining costs shall be borne in equal parts by the Contracting Parties. The Tribunal may, however in its decision direct that a higher proportion of costs shall be borne by one of the two Contracting parties and this award shall be binding on both Contracting Parties. The Tribunal shall determine its own procedure.
5. Unless agreed otherwise by the Contracting Parties, the venue of Arbitration shall be The Hague, Netherlands.
6. All claims shall be submitted and all hearing session shall be completed within a period of eight months from the date the third member is appointed, unless otherwise agreed. The tribunal shall issue its decision within two months from the date of submitting the final claims or the date of closing the general sessions, whichever is later.
7. It shall not be permitted to submit a dispute to an Arbitration Tribunal pursuant to the rules of this Article if the same dispute was submitted to another Arbitration Tribunal pursuant to the rules of Article (8) hereunder and which is still under hearing by that Tribunal. This, however, shall not affect entering into direct and constructive negotiations between the Contracting parties.

## **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 before its entry into force.

## **Article 13. Entry Into Force**

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.

## **Article 14. Duration and Denunciation**

1. This Agreement shall remain in force for a period of ten (10) years and thereafter shall be tacitly extended, unless either Contracting Party gives to the other Contracting Party written notification through diplomatic channels of its intention to denounce the Agreement. The Agreement shall be terminated one year after the date of receipt of the said notification.
2. In respect of investments made prior to the date of the termination of this Agreement, the provisions of this Agreement shall continue to be effective for a period of ten (10) years from the date of denunciation of this Agreement.
3. This Agreement may be amended by written agreement between the Contracting Parties. Any amendment shall enter into force when each Contracting Party has notified the other that it has completed all requirements for entry into force of such amendment.

IN WITNESS WHEREOF, the undersigned representatives, duly authorized thereto, have signed the present Agreement.

Done at Doha on 12 November 2001, in two originals, in Croatian, Arabic and English languages, all texts being equally authentic. In a case of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF CROATIA FOR THE GOVERNMENT OF THE STATE OF QATAR