وإشهادا على ما تقدم قام المفوضان أدناه والمخولان من قبل حكومتيهما بالتوقيع على هذه الاتفاقية.

حررت هذه الاتفاقية في **مدينة لشبونة** بتاريخ 1430/4/ هجرية الموافق 4/ 2009 ميلادية، من نسختين أصليتين، بكل من اللغات البرتغالية والعربية والانجليزية، ولكل منها ذات الحجية. وفي حال حدوث خلاف في التفسير يرجح النص المحرر باللغة الانجليزية.

عن حكومة جمهورية البرتغال **عن حكومة دولة قطر**

فهد بن جاسم بن محمد آل ثاني
وزير الأعمال والتجارة

AGREEMENT BETWEEN THE GOVERNMENT OF THE PORTUGUESE REPUBLIC AND THE GOVERNMENT OF THE STATE OF QATAR ON THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS.

The Government of the Portuguese Republic and the Government of the State of Qatar, hereinafter referred to as the «Parties»:

Desiring to create conditions favourable for fostering investments made by investors of one Party in the territory of the other Party on the basis of equality and mutual benefit;

Recognising that the promotion and protection of these investments will stimulate the flow of capital and technology between the two Parties in the interest of economic sustainable development:

have agreed as follows:

Article 1

Definitions

For the purpose of this Agreement, and unless stated otherwise:

1 — The term «investments» means any kind of assets and rights invested by investors of one of the Parties in the territory of the other Party, in accordance with the law of the latter, including in particular, though not exclusively:

a) Movable and immovable property as well as any other rights in rem, such as mortgages, liens, pledges and similar rights;

b) Shares, stocks, debentures, or other forms of interest in companies and/or economic interests from the respective activity;

c) Claims to money or to any other rights having an economic value;

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

e) Concessions conferred by law, under a contract or by an administrative act of a competent state authority, including concessions for prospecting research and exploitation of natural resources;

f) Goods that, under a leasing agreement, are placed at the disposal of a lessee in the territory of one Party in conformity with its laws and regulations.

1.1 — Any changes of the form in which assets are invested does not affect their character as investments, provided that such a change does not go against the laws and regulations of the Party in whose territory the investment was made.

2 — The term «investors» means:

In respect of the Portuguese Republic:

a) Natural persons having the nationality of the Portuguese Republic, in accordance with its laws and regulations;

b) Legal persons, including corporations, commercial companies and associations, which main office is in the territory of the Portuguese Republic and are incorporated or constituted in accordance with its laws and regulations;

In respect of the State of Qatar:

a) Natural persons deriving their status as nationals of the State of Qatar according to its applicable law;

b) Government and Governmental agencies, corporations, companies, firms and 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 the amounts yielded by investments, over a given period, including in particular, though not exclusively, profits, dividends, interests, royalties or other forms of income related to the investments, including technical assistance fees.

3.1 — In cases where the returns of investments, as defined above, are reinvested, the income resulting from the reinvestment shall also be considered as income related to the first investments.

3.2 — The returns of investments are subject to the same protection given to the investments.

4 — The term «territory» means:

a) In respect of the Portuguese Republic: the territory in which the Portuguese Republic has in accordance with international law and its national laws, sovereign rights or jurisdiction, including land territory, territorial sea and air space above it, as well as those maritime areas adjacent to the outer limits of the territorial sea, including seabed and subsoil thereof;

b) In respect of the State of Qatar: means the State of Qatar's Lands, internal and territorial waters including its bed and subsoil, the air space over them, the exclusive economic zone and the continental shelf, over which the State of Qatar exercises its sovereignty and its sovereign rights and jurisdiction in accordance with the provisions of international law and Qatar's laws and regulations.

Article 2

Scope

This Agreement shall apply to all investments made by investors from one of the Parties in the territory of the other Party, which are made prior to as well as after its entry into force, in accordance with the respective laws and regulations, but shall not apply to any dispute concerning investments which has arisen before its entry into force.

Article 3

Promotion and protection of investments

1 — Each Party shall encourage and create favourable conditions for investors of the other Party to make invest-

ments in its territory, and shall admit such investments in accordance with its laws and regulations.

2 — Investments of investors of either Party made in accordance with the respective 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 Party.

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

Article 4

National and most favoured nation treatment

1 — Investments made by investors of one Party in the territory of the other shall be accorded treatment that is not less favourable than the latter Party accords to the investments of its own investors or investments of investors of any third State, whichever is more favourable.

2 — Investors of one Party shall be accorded by the other Party, as regards the management, maintenance, use, enjoyment or disposal of their investments, treatment that is fair and equitable and not less favourable that the latter Party accords to its own investors or to investors of any third State.

3 — The provisions of this article shall not be construed so as to oblige one Party to extend to the investors of the other Party the benefit of any treatment, preference or privilege which may be extended by the former Party by virtue of:

a) Any membership of or association with any existing or future customs unions, free trade zones, economic union, monetary union and any international agreement resulting in such unions or similar institution; and

b) Bilateral and multilateral agreements having or not regional nature, relating wholly or mainly to taxation.

Article 5

Other Obligations

1 — If the laws and regulations of either Party or obligations under international law existing at present or established hereafter between the Parties in addition to this Agreement contain a regulation, whether general or specific, entitling investments made by investors of the other Party to a treatment more favourable than the one provided for by this Agreement, such regulation shall, to the extent that is more favourable, prevail over this Agreement.

2 — Each Party shall fulfil any contractual obligations, beyond the ones foreseen in the present Agreement, regarding investments made by investors of the other Party in its territory.

Article 6

Expropriation

1 — Investments made by investors of either Party in the territory of the other Party shall not be expropriated, nationalised or subject to any other measures with equivalent effects to expropriation or nationalisation (hereinafter referred to as expropriation) except by virtue of law, for the public interest, on a non-discriminatory basis and against prompt compensation.

2 — The compensation mentioned in paragraph 1 of this article shall amount to the market value of the expropriated investments immediately before the expropriations taken or before the impending expropriation became public knowledge, whichever is the earlier. The compensation shall be paid without delay, shall include the usual commercial interest at a fair and equitable rate — which shall not be less than the prevailing six month LIBOR —, from the date of the expropriation until the date of payment and shall be prompt, effective, adequate and freely transferable.

3 — Investors whose investments are expropriated shall have the right under the law of the expropriating Party to the prompt review, by a judicial or other competent authority of that Party, of their cases and of valuation of their investments in accordance with the principles set out in this article.

Article 7

Compensation for damages and losses

1 — Investors of one Party whose investments suffer losses in the territory of the other Party, owning to war or other armed conflict, revolution, a state of national emergency or other events considered as such by international law, shall be accorded treatment no less favourable by the latter Party than that Party accords to the investments of its own investors, or of any third State, whichever is more favourable, as regards restitution, indemnification or other valuable consideration.

2 — The compensation foreseen in paragraph 1 of this article shall be, without delay, freely transferable in convertible currency.

Article 8

Transfers

1 — Each Party, in accordance with its laws and regulations, shall guarantee to investors of the other Party the free transfer of sums related to their investments including, in particular, though not exclusively:

a) The initial capital and additional amounts necessary to maintain or increase the investments;

b) The returns defined in paragraph 3 of article 1 of this Agreement;

c) The funds in service, repayments and amortisation of loans, recognised by both Parties to be an investment;

d) The proceeds obtained from the total or partial sale or from the total or partial liquidation of the investment;

e) The compensation or other payments referred to in articles 6 and 7 of this Agreement;

f) Any preliminary payments that may be made in the name of the investor in accordance with article 9 of this Agreement;

g) The wages earned by foreign workers dully authorised to work in connection with an investment in the territory of the other Party.

2 — The transfers referred to in this article are made without delay, in a freely convertible currency, at the exchange rate applicable by the Party in which territory the investments are made, on the date of the transfer.

3 — For the purposes of the present article, a transfer shall be deemed to have been made «without delay» if effected in such a period as is normally required for the completion of the necessary transfer formalities, which

should not in any circumstances exceed thirty (30) days from the date the requirement for transfer has been submitted.

Article 9

Subrogation

If one Party or its designated agency makes a payment to one of its investors under a guarantee in respect of an investment made in the territory of the other Party, the latter Party shall recognize the assignment of all the rights and claims of the indemnified investor to the former Party or its designated agency to exercise by virtue of subrogation any such right to the same extent as the investor.

Article 10

Settlement of disputes between the Parties

1 — Any disputes concerning the interpretation or application of this Agreement shall be settled, if possible, through negotiation, through diplomatic channels.

2 — If the Parties fail to reach such settlement within six (6) months after the beginning of negotiations, the dispute shall, upon the request of either Party, be submitted to an ad hoc arbitral tribunal, in accordance with the provisions of the following paragraphs.

3 — The Arbitral Tribunal shall be constituted, as follows:

a) Each Party shall appoint one arbitrator within two (2) months of the receipt of the written request for arbitration;

b) The two shall together within one (1) month appoint a national of a third State with whom both States have diplomatic relations as president of the arbitral tribunal.

4 — If the arbitral tribunal is not constituted within three (3) months of the receipt of the written request for arbitration, either Party may request the President of the International Court of Justice to make the necessary appointments.

5 — If the President of the International Court of Justice is a national of one of the Parties or is prevented from making the appointments for any other reason, the next member of the International Court of Justice who is not a national of either Party or who is not prevented shall be requested to make the appointments.

6 — The arbitral tribunal shall determine its own rules of procedure and shall render its decisions in accordance with the provisions of this Agreement and the International Law.

7 — The decision of the arbitral tribunal, which shall be final and binding on both Parties, shall be by majority vote.

8 — In the event of dispute as to the meaning or scope of the decision, the arbitral tribunal shall construe it upon the request of any Party.

9 — Each Party shall bear the costs for its arbitrator and for its representation before the arbitral tribunal, being the costs with the president and with the tribunal shared equally between the Parties.

10 — The arbitral tribunal may make a different decision regarding costs.

Article 11

Settlement of Disputes between a Party and an Investor of the other Party

1 — Any dispute which arises between an investor of one Party and the other Party concerning investments of that investor in the territory of the latter Party shall be settled amicably between the parties in dispute.

2 — If such dispute cannot be settled within six (6) months of the date when it has been raised by one of the parties in dispute, it shall at the written request of the investor, be submitted to:

a) The competent courts of the Party in which territory the investments are made; or

b) The International Centre for the Settlement of Investments Disputes (ICSID) through conciliation or arbitration, established under the Convention on the Settlement of Investments Disputes between States and Nationals of other States, opened for signature in Washington D. C., on March 18, 1965; or

c) An ad hoc arbitral tribunal established in accordance with the arbitral rules of the United Nations Commission on International Trade Law (UNCITRAL).

3 — The decision to submit the dispute to one of the above mentioned procedures shall be final.

4 — Any award by an ad hoc tribunal shall be final and binding. Any award under the procedures of the Convention mentioned in subparagraph *b*) of paragraph 2 above, shall be binding and subject only to those appeals or remedies provided for in this Convention. The awards shall be enforced in accordance with domestic law.

5 — Once the judicial or arbitral proceedings have terminated and a Party has failed to abide by or to comply with the award rendered in compliance with this article, both Parties may exceptionally use diplomatic channels in order to guaranty the enforcement of the said award.

Article 12

Relations between the Parties

The provisions of this Agreement shall apply irrespective of the existence of diplomatic or consular relations between the Parties.

Article 13

Consultations

Either Party may propose to the other Party that consultations be held on any matter concerning interpretation, application and implementation of this Agreement. The other Party shall accord sympathetic consideration to the proposal and shall afford adequate opportunity for such consultations.

Article 14

Entry into force

The present Agreement shall enter into force thirty (30) days after the date of receipt of the latter of the notifications, in writing through diplomatic channels, conveying the completion of the legal internal procedures of each Party required for that purpose.

Article 15

Duration and Termination

1 — This Agreement shall remain in force for successive and automatically renewable periods of ten (10) years.

2 — Either Party may denounce this Agreement upon notification, in writing, through diplomatic channels, at least twelve (12) months prior its expire date.

3 — In case of denunciation the present Agreement shall terminate on its expire date.

4 — In respect of investments made prior to the date of termination of this Agreement the provisions of articles 1 to 13 shall remain in force for a further period of ten (10) years from the date of termination of this Agreement.

Article 16

Amendments

1 — The present Agreement may be amended by request of one of the Parties.

2 — The amendments shall enter into force in accordance with the terms specified in article 14 of this Agreement.

In witness whereof the undersigned duly authorised thereto by their respective Governments have signed this Agreement.

Done in Lisbon, on this 21th day of April 2009, in two originals, in the portuguese, arabic and english languages, all texts being equally authentic. In case of any divergence of interpretation, the english text shall prevail.

For the Government of the Portuguese Republic:

Manuel Pinho, the Minister of Economy and Innovation.

For the Government of the State of Qatar:

Fahad Bin Jassim Al Thani, the Minister of Commerce.

MINISTÉRIO DA ECONOMIA, DA INOVAÇÃO E DO DESENVOLVIMENTO

Decreto-Lei n.º 66/2010

de 11 de Junho

O Programa do XVIII Governo Constitucional dispõe que um dos objectivos fundamentais para modernizar Portugal passa por promover a concorrência dos mercados da energia e a transparência dos preços, designadamente do gás natural.

A dinamização da concorrência nos mercados grossista e retalhista com vista à redução da sua concentração necessita de ser estimulada. Para tal, o governo preconiza um processo progressivo de eliminação das tarifas reguladas, salvaguardando o interesse dos consumidores mais vulneráveis.

A reorganização do Sistema Nacional de Gás Natural (SNGN), operada em 2006, pelo Decreto-Lei n.º 30/2006, de 15 de Fevereiro, e pelo Decreto-Lei n.º 140/2006, de 26 de Julho, introduziu profundas alterações ao regime de exercício das actividades do sector, das quais se destacam a introdução da figura do comercializador de último recurso e a separação jurídica das actividades de operação das redes e demais infra-estruturas do sistema das restantes actividades do SNGN, designadamente da comercialização.

Da reorganização do sector do gás natural resultou ainda a obrigação da Entidade Reguladora dos Serviços Energéticos (ERSE) aprovar um regulamento tarifário e fixar os preços e as tarifas segundo os princípios tarifários estabelecidos no Decreto-Lei n.º 30/2006, de 15 de Fevereiro, não só as tarifas de acesso às redes e infra-estruturas, mas também as tarifas de venda a todos os clientes finais do gás fornecido pelos comercializadores de último recurso.

Contudo, no quadro da Directiva n.º 2003/55/CE, do Parlamento e do Conselho, de 26 de Junho, relativa às regras comuns para o mercado de gás natural, e no espírito que subjaz ao Decreto-Lei n.º 30/2006, de 15 de Fevereiro, tanto a figura do comercializador de último recurso como a fixação de tarifas reguladas de venda de gás assumem um carácter restrito e provisório, tendo sido consagradas sobretudo a favor dos consumidores domésticos e de pequenas empresas, e, ainda assim, apenas no período em que o mercado não assegurasse em termos competitivos e socialmente razoáveis o fornecimento de gás natural.

Desde a reorganização ocorrida em 2006 o sector tem sofrido uma grande evolução, influenciada pelo calendário previsto para a abertura do mercado, bem como pelas condições favoráveis que entretanto ocorreram.

Assim, desde 1 de Janeiro de 2010 todos os consumidores passaram a poder escolher livremente o seu comercializador de gás natural.

A abertura de mercado, reforçada pela criação do Mercado Ibérico do Gás Natural (MIBGAS), permitiu o aparecimento de novos comercializadores.

Por tudo isto, e em resultado da existência de grandes quantidades de gás natural transaccionadas, actualmente o mercado de gás natural para fornecimentos superiores a 10 000 m^3 apresenta grande liquidez, que se traduz na disponibilidade de ofertas de fornecimento em termos competitivos e mais favoráveis para os consumidores.

O desenvolvimento entretanto verificado no mercado do gás natural, a que acresce a necessidade de conformação do conceito de comercializador de último recurso com as exigências da Directiva n.º 2003/55/CE, justificam a extinção das tarifas reguladas de venda a clientes finais de gás natural com consumos anuais superiores a 10 000 m^3.

Deste modo, a extinção destas tarifas reguladas afigura-se simultaneamente favorável para os consumidores e para o desenvolvimento do mercado, tornando-o mais aberto e competitivo.

O presente decreto-lei tem por finalidade estabelecer os procedimentos aplicáveis à extinção das tarifas reguladas de venda a clientes finais de gás natural com consumos anuais superiores a 10 000 m^3, nos quais se incluem sobretudo clientes industriais, excluindo-se do seu âmbito de aplicação as tarifas reguladas de venda a consumidores e clientes finais com consumos anuais inferiores ou iguais a 10 000 m^3. Deste modo, os consumidores domésticos poderão continuar a ser fornecidos pelo comercializador de último recurso, continuando as respectivas tarifas a ser determinadas pela ERSE.

Foi ouvida a Entidade Reguladora dos Serviços Energéticos.

Foi promovida a consulta ao Conselho Nacional do Consumo.

Assim:

Nos termos da alínea *a*) do n.º 1 do artigo 198.º da Constituição, o Governo decreta o seguinte:

Artigo 1.º

Objecto

O presente decreto-lei estabelece o procedimento aplicável à extinção das tarifas reguladas de venda de gás natural a clientes finais com consumos anuais superiores a 10 000 m^3.