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**Published on the website on May 2024**

**Law No. (5) of 2004 ratifying the Convention between the Government of the kingdom of Bahrain and the Government of the Republic of Yemen for the Promotion and Protection of Investments**

We, Hamad bin Isa Al Khalifa, King of the Kingdom of Bahrain.

Having reviewed the Constitution;

And the Convention between the Government of the kingdom of Bahrain and the Government of the Republic of Yemen for the Promotion and Protection of Investments, signed in Manama on 24 Shawwal 1423 A.H., corresponding to 28 December 2002,

The Shura Council and the Council of Representatives have approved the following law, which we have ratified and enacted:

**Article One**

The Convention between the Government of the kingdom of Bahrain and the Government of the Republic of Yemen for the Promotion and Protection of Investments, signed in Manama on 24 Shawwal 1423 H., corresponding to 28 December 2002, attached to this Law, has been ratified.

**Article Two**

The Ministers- each within his jurisdiction- shall implement this Law, and it shall come into force from the day following the date of its publication in the Official Gazette.

**King of Kingdom of Bahrain**

**Hamad bin Isa Al Khalifa**

**Issued at Riffa Palace:**

**On: 14 Rabi' Al-Akhir 1425 H.**

**Corresponding to: 2 June 2004**

**Convention between the Government of the kingdom of Bahrain and the Government of the Republic of Yemen for the Promotion and Protection of Investments**

The government of the Kingdom of Bahrain and the government of the Republic of Yemen, hereinafter referred to as the contracting parties, desiring to create appropriate conditions to intensify the investment activity of the nationals of each of the two states and their companies in the territory of the other state, realizing that the promotion and mutual protection of such investments according to an international convention would stimulate individual commercial activity, transferring capital and technology, and working to consolidate and increase prosperity in the two states, have agreed on the following:

**Article One**

**Definitions**

With regard to the application of the provisions of this Convention, unless expressly stipulated otherwise, the following words shall have the meanings corresponding to each of them as shown below:

A- Investments: All types of assets owned by an investor of a contracting party, invested in the territory of the other contracting party at a time earlier or later to the entry into force of this convention, which is associated with the acceptance of the host party as an “investment” in accordance with its laws and regulations.

B- Investment: All types of assets that include, in particular, without limitation, the following:

(1) Movable and immovable property and any other property rights, such as real estate mortgages, privileges or other mortgages.

(2) Stocks, bonds, shares and every other form of contribution in the companies and proceeds reserved for the purpose of reinvestment.

(3) Obligations and debts as well as debt for Consideration, resulting from a contract related to investment.

(4) Intellectual and industrial property rights and material elements related to commercial assets such as (trademark, licenses, patents, reputation) used in a licensed investment project.

(5) Privileged rights granted under a law or contract, including privileges for searching for natural resources and agriculture, or developing, extracting or exploiting them in a manner that does not contradict the laws in force in both contracting parties. Any change in the form of investment of assets does not affect their character as investments, and the word investment includes all investments based on the territories or maritime areas of the contracting parties.

C- Proceeds: The amounts resulting from any investment, including - without limitation - profits, interest, capital gains, stocks and fees profits.

D- Investor: Any natural or legal person who holds the nationality of one of the contracting parties in accordance with its laws, and invests in the territory of the other party:

1) Natural Person: A citizen who holds the nationality of one of the contracting parties in accordance with its laws.

**2) Legal Person:** Companies or every legal person based in the territory of one of the contracting parties in accordance with the legislation in force, whose head office is in the same territory, or that this legal person is managed directly or indirectly by one of the contracting parties, or by other legal persons whose head office is in the territory of one of the contracting parties in accordance with the legislation in force.

E- Territory:

(1) With regard to the Kingdom of Bahrain: The Kingdom of Bahrain means the lands of the Kingdom of Bahrain as well as the marine areas, the seabed and the land beneath it, over which Bahrain exercises sovereign rights and jurisdiction in accordance with the International Law.

(2) With regard to the Republic of Yemen: The territory under its sovereignty, including the islands and the territorial sea, in addition to the exclusive economic zone, as well as the Continental Shelf and other areas over which the Republic of Yemen exercises its sovereignty and authority in accordance with its laws and the International Law.

(3)

**Article Two**

**Promotion and Protection of Investments**

1- Each of the two contracting parties shall encourage and provide appropriate conditions for the nationals and companies of the other contracting party to invest capital in its territory, and shall be obliged to authorize the aforementioned capitals to enter its territory, taking into account its right to exercise the powers authorized to it by its internal laws.

2-

3- Investments of nationals or companies of each of the contracting parties shall be accorded fair and equitable treatment at all times and shall be provided with full protection and security in the territory of the other contracting party.

4- Investment proceeds that are reinvested according to the laws and regulations of the host contracting party shall benefit from the same protection and privileges granted to the original investments.

5- Each Contracting Party shall observe any obligation it may have entered into with regard to the investments of investors of the other Contracting Party.

**Article Three**

**Most-Favoured Nation Provisions**

1- Each Contracting Party shall accord in its territory to the investments of nationals and companies of the other Contracting Party a treatment not less favourable than that accorded to its own nationals and companies or nationals and companies of a third state.

2- Each Contracting Party shall grant in its territory the nationals and companies of the other Contracting Party, particularly with regard to managing, exploiting or benefiting from their investments, a treatment that shall not be less privileged than that granted to its own nationals and companies or the nationals and companies of another state.

3- This treatment shall not extend to the privileges granted by a contracting party to nationals and companies of a third state according to either their membership in a customs or economic union, a common market, a free trade area, a regional cooperation council, a non-double taxation agreement, or any agreement in the field of taxation, or their participation in one of these gatherings.

**Article Four**

**Expropriation or nationalization**

1- Subject to the provisions of Article (7) of this Convention, the investments of nationals or companies affiliated with either of the contracting parties may not be nationalized, expropriated, or subjected to any procedures equivalent to nationalization or expropriation (hereinafter referred to as ((expropriation))) in the territory of the other contracting party, unless the expropriation takes place for a general purpose and on a non-discriminatory basis, and in exchange for fair and effective compensation to be paid immediately, provided that such compensation covers the true value of the investments immediately prior to the expropriation, or before the news of the expropriation becomes public. Such compensation shall be paid without delay, while allowing its use and guaranteeing its free transfer.

2- Nationals or companies affected by the expropriation shall have the right to conduct an immediate review of the subject of expropriation, in accordance with the laws of the contracting party expropriating, by a judicial authority or an independent authority affiliated to that party. In addition to the assessment of the affected investments in accordance with the principles mentioned in this paragraph.

3- Where either of the Contracting Parties expropriates the assets of a company established or formed under the laws in force in any part of its territory, and the nationals or companies of the other Contracting Party have owned shares in that company, the expropriating party shall apply the provisions of Paragraph (1) of this Article to the extent necessary to ensure prompt and fair compensation for the investments of nationals or companies affiliated with the other Contracting Party who own the mentioned shares.

**Article Five**

**Compensation for Losses**

1- Nationals or companies of either Contracting Party whose investments in the territory of the other Contracting Party suffer losses resulting from war, other armed conflicts, revolution, national emergency, uprising, insurrection or disturbances in the territory of the second Contracting Party, shall benefit from treatment not less favourable than that granted to its nationals or companies, or that granted to nationals or companies of any other state, related to restoring rights to their owners, compensation for potential loss, or any other settlements, while ensuring the freedom to transfer the amounts of those compensations

2- Without prejudice to the provisions of Paragraph (1) above of this Article, the rights of nationals or companies affiliated to either of the two contracting parties shall be restored or they shall be compensated fairly, with the guarantee of freedom to transfer the amounts of such compensations in the event that they suffer any losses in any of the cases referred to in that paragraph or any other damage in the territory of the other contracting party.

**Article Six**

**Transfers**

1- Each of the contracting parties shall guarantee, in regard to the investments of nationals or companies of the other contracting party, the freedom to transfer their investments and their proceeds in accordance with the domestic legislation in force in their countries, after payment of tax dues. And they shall guarantee that the transfer is carried out without delay in the free currency in which the original investment capital was made, or in any other free currency that is agreed upon between the investors and the relevant contracting party. Unless otherwise agreed, transfers shall be made at the current currency rates on the date of transfer and in accordance with the currency conversion regulations in force.

2- The host party guarantees to the investor the freedom to dispose of the ownership of the capital, whether by selling in whole or in part, or by liquidation, assignment, donation, or any other means of transferring ownership.

**Article Seven**

**Disputes settlement between the investor and the host state**

Disputes that arise between a national or a company belonging to one of the contracting parties and the other contracting party in regard to an obligation of the other party under the provisions of this convention, regarding the investment of the said national or company and were not settled amicably within six (6) months, shall be referred to international arbitration if either of the disputing parties desires:

**A.** According to the arbitration rules set by the United Nations Committee on International Trade Law for the year 1976 and its amendments in force, or any other arbitration rules set by the committee.

B. The International Centre for Settlement of Investment Disputes established under the Convention for the Settlement of Disputes Related to Investments between States and Nationals of States. The disputing parties may agree in writing to amend these rules.

**Article Eight**

**Settlement of Disputes in implementation Between the Contracting Parties**

1- If possible, disputes that arise between the contracting parties regarding the interpretation and implementation of this Convention shall be settled through diplomatic channels.

2- If it is not possible to settle the dispute arising between the contracting parties through diplomatic channels within six (6) months, this dispute may be submitted, at the request of one of the contracting parties, to an Arbitral Tribunal.

3- The Arbitral Tribunal shall be formed for each case separately as follows:

(A) Within two months from the date of receiving the arbitration request, each of the contracting parties shall appoint one member of the arbitral tribunal, these two members shall choose a national of a third state to be appointed as the president of the arbitral tribunal after the approval of the contracting parties. The aforementioned president shall be appointed within two months from the date of appointment of the two members.

(B) If the necessary appointments are not made within the periods specified in Paragraph (1) of this Article, and in the event that no other agreement is reached between the two parties, either of the contracting parties may invite the President of the International Court of Justice to make any necessary appointments. If the President of the International Court of Justice is a national of either of the contracting parties, or if he is unable to perform the aforementioned functions, the Vice-President of the International Court of Justice shall be requested to make the necessary appointments. If the Vice-President of the International Court of Justice is a national of either of the contracting parties, or if he is unable to perform the aforementioned functions, the member of the International Court of Justice next in precedence shall be requested to make the necessary appointments, provided that he is not a national of either Contracting Party.

(C) The arbitral tribunal takes its decisions by the majority of votes; those decisions shall be binding on the contracting parties. Each party bears the costs of its appointed arbitral tribunal member representing them in the deliberations of the arbitral tribunal. The costs of the president of the arbitral tribunal and other remaining costs shall be divided equally between the two contracting parties. However, the tribunal may decide to charge one of the contracting parties the largest portion of the costs, and this decision shall be binding on both parties. The arbitral tribunal itself shall determine its own procedures.

**Article Nine**

**Replacement**

1- If one of the Contracting Parties or an agency designated by it makes any payments pursuant to a compensation granted to it in relation to an investment in the territory of the other Contracting Party, the other Contracting Party shall recognize the conferred rights to the first Contracting Party, its legally designated agency or by a legal document executed by it, including all the rights and claims of the party that has been compensated, and shall recognize the right of the first party or the agency appointed by it to exercise those rights and implement those claims according to its right to take the place of its nationals within the limits exercised by the party to whom guarantees or compensation were given.

2- Any payments received by the First Contracting Party or an agency designated by it in non-convertible currencies in accordance with acquired rights and claims shall be made available for the free disposal of the First Contracting Party for the purposes of covering any expenditures made in the territory of the other Contracting Party.

**Article Ten**

**Compensation resulting from non-compliance with the guarantees given to the investor**

1- The investor shall be entitled to compensation for the damage he suffers as a result of any of the contracting parties or one of its public or local authorities or institutions doing the following:

(A) Prejudice to any of the rights and guarantees granted to the investor in this Convention.

(B) Violation of any of the international obligations and undertakings imposed on the contracting party arising from this Convention in favour of the investor in the territory of the other contracting party, or failure to do what is required to be implemented, whether by intention or negligence.

2- Refusing to implement an enforceable court ruling directly related to the investment.

3- The value of compensation shall be equal to the damage sustained by the investor, according to the type and amount of damage.

4- The compensation shall be in cash if it is not possible to return the investment to the state before the damage occurred

5- Cash compensation shall be assessed within three months from the day of the damage and to be paid within six months from the date of agreement on the amount of compensation. Compensation shall be assessed by a friendly agreement between the two parties or by arbitrators.

**Article Eleven**

**The field of application to investments**

The provisions of this Convention shall apply to the investments existing before and after the entry into force of this Convention and shall not apply to the disputes that may have arisen before its entry into force.

**Article Twelve**

**Application of other Provisions**

If the provisions of the applicable law in the country of either of the contracting parties or the obligations under the existing international law, at the present time or entail at a later time of signing this Convention, in addition to the provisions of the present Convention, include provisions, whether general or specific, granting investments made by the investors of the other contracting party a more favourable treatment than provided by the present Convention, those provisions shall be applied instead of the provisions of the present Convention to the extent of their more favourable treatment.

**Article Thirteen**

**Convention entry into force**

This Convention shall enter into force after thirty days have elapsed from the date on which each of the contracting parties notifies the other party that the constitutional procedures necessary for the enforcement of this Convention have been completed.

**Article Fourteen**

**Term and termination of the Convention**

This Convention shall remain in force for a period of ten years and shall be renewed automatically thereafter unless one of the contracting parties notifies the other party in writing and through diplomatic channels of its desire to terminate the work of the Convention six (6) months prior to the expiry date. With regard to the investments made during the validity of the Convention, the provisions of the Convention related to those investments shall continue for a period of ten years after the date of termination of the Convention, without prejudice thereafter to the right to apply the provisions of the general International Law.

In witness of the foregoing, the undersigned have signed this Convention in accordance with the power authorized to them by their states for this purpose.

This Convention was done in the Arabic language in the city of Manama on Saturday, 28 December 2002, corresponding to 24 Shawwal1423 H, in two originals, each of which has the same legal force.

**For the Government of the Kingdom of Bahrain**

**Abdullah bin Hassan Saif**

**Minister of Finance and National Economy**

**For the Government of the Republic of Yemen**

**Ahmed Mohamed Soufan**

**Minister of Planning and Development**