Z A K O N

O POTVRĐIVANJU SPORAZUMA IZMEĐU REPUBLIKE SRBIJE I UJEDINJENIH ARAPSKIH EMIRATA O UZAJAMNOM PODSTICANJU I ZAŠTITI ULAGANJA

Član 1.

Potvrđuje se Sporazum između Republike Srbije i Ujedinjenih Arapskih Emirata o uzajamnom podsticanju i zaštiti ulaganja, sačinjen u Abu Dabiju, 17. februara 2013. godine, u dva originala na srpskom, arapskom i engleskom jeziku.

Član 2.

Tekst Sporazuma između Republike Srbije i Ujedinjenih Arapskih Emirata o uzajamnom podsticanju i zaštiti ulaganja na srpskom i engleskom jeziku glasi:

S P O R A Z U M

IZMEĐU REPUBLIKE SRBIJE I UJEDINJENIH ARAPSKIH EMIRATA O UZAJAMNOM PODSTICANJU I ZAŠTITI ULAGANJA

Republika Srbija i Ujedinjeni Arapski Emirati (u daljem tekstu: „Strane ugovornice");

U nameri da promovišu veću međusobnu ekonomsku saradnju, u pogledu investicija učinjenih od strane ulagača jedne Strane ugovornice na teritoriji druge Strane ugovornice;

Prepoznajući da će sporazum o uzajamnom podsticanju i zaštiti ulaganja pružiti takvim investicijama stimulans za protok kapitala i ekonomski razvoj Strana ugovornica;

Saglašavajući se da će stabilan okvir za ulaganja maksimalizovati efikasno korišćenje ekonomskih resursa i poboljšati životni standard;

Razumejući da promocija takvih ulaganja zahteva zajednički napor ulagača jedne Strane ugovornice i druge Strane ugovornice,

Sporazumele su se o sledećem:

Definicije

Član 1.

U smislu ovog sporazuma:

1. Izraz „ulagač" označava u odnosu na bilo koju Stranu ugovornicu:

(a) fizičko lice koje ima državljanstvo jedne Strane ugovornice, u skladu sa njenim zakonima i propisima i koje ulaže na teritoriji druge Strane ugovornice;

(b) pravno lice ustanovljeno, osnovano ili na drugi način pravovaljano organizovano u skladu sa važećim zakonima i propisima te Strane ugovornice, koje ima sedište na teritoriji te Strane ugovornice i koje ulaže na teritoriji druge Strane ugovornice.Vlada Strane ugovornice.

2. Izraz „ulaganje" označava svaku vrstu uložene, stvorene ili pribavljene imovine od strane ulagača jedne Strane ugovornice na teritoriji druge Strane ugovornice, u skladu sa njenim zakonima i propisima i obuhvata naročito, mada ne i isključivo sledeće oblike imovine:

(a) pravo svojine na pokretnim i nepokretnim stvarima i druga stvarna prava, kao što su hipoteka, zaloga, plodouživanje i slična prava;

(b) akcije, obveznice, kao i druge vrste hartija od vrednosti sa pravom učešća;

(v) reinvestirana dobit, obveznice, novčana potraživanja ili druga prava na zakonitu radnju koja ima finansijsku implikaciju na ulaganje;

(g) prava intelektualne svojine, uključujući autorska prava i ostala srodna prava, industrijska imovinska prava, trgovački znaci, patenti, industrijski dizajn i tehnički procesi, pravo u raznovrsnosti postrojenja, *know how,* poslovne tajne, poslovna imena i *goodwill*;

(d) pravo na angažovanje u ekonomskim i komercijalnim aktivnostima potvrđenim zakonom, upravnim aktom ili ugovorom. Prirodna bogatstva nisu predmet ovog sporazuma.

Promena oblika u kome se ulaže ili reinvestira imovina neće uticati na njihov karakter kao ulaganja, ukoliko takva promena nije u suprotnosti sa odobrenjima datim za inicijalno uloženu imovinu, ako takva odobrenja postoje.

3. Izraz „prihodi” označava novčane iznose koje donosi ulaganje i obuhvata, naročito, ali ne i isključivo, profit, dividende, kapitalnu dobit, kamate, naknade za prava intelektualne svojine i slične naknade.

4. Izraz „konvertibilna valuta” označava bilo koju valutu koja je u širokoj upotrebi u međunarodnim transakcijama i kojom se trguje na primarnom tržištu valuta.

5. Izraz „teritorija” označava:

(a) Republika Srbija: označava prostor nad kojim Republika Srbija vrši suverena prava i jurisdikciju, u skladu sa svojim nacionalnim zakonodavstvom i međunarodnim pravom, a kada je upotrebljena u geografskom smislu označava teritoriju Republike Srbije.

(b) Ujedinjeni Arapski Emirati: teritoriju Ujedinjenih Arapskih Emirata, njenu morsku teritoriju, vazdušni prostor i podvodni prostor na kojoj Ujedinjeni Arapski Emirati u skladu sa međunarodnim pravom i svojim zakonodavstvom vrše suverena prava, uključujući Ekskluzivne Ekonomske Zone, kao i kopno i ostrva pod njihovom jurisdikcijom u pogledu aktivnosti koje se sprovode u njenim vodama, morskom dnu, podzemlju u vezi sa istraživanjem i eksploatacijom prirodnih bogatstava na osnovu njenih zakona i međunarodnog prava.

Promocija i podsticanje ulaganja

Član 2.

1. Svaka Strana ugovornica će podsticati ulaganja iz druge Strane ugovornice i stvarati povoljne uslove za ulagače druge Strane ugovornice da ulažu na njenoj teritoriji i dozvoljavati takva ulaganja u skladu sa svojim važećim zakonodavstvom.

U cilju podsticanja međusobnih investicionih tokova, svaka Strana ugovornica će u meri u kojoj je to moguće učiniti napor da informiše drugu Stranu ugovornicu, na zahtev bilo koje od Strana ugovornica o mogućnostima za ulaganja na svojoj teritoriji.

Zaštita ulaganja

Član 3.

1. Ulaganja i povrat ulaganja ulagača svake Strane ugovornice koji su učinjeni u skladu sa zakonima i propisima će, u svako doba, na teritoriji druge Strane ugovornice, uživati pravičan i jednak tretman i punu zaštitu i bezbednost.

2. Nijedna od Strana ugovornica neće arbitrernim ili diskriminatornim merama ometati razvoj, upravljanje, korišćenje, ekspanziju, prodaju i, ako je to slučaj, likvidaciju takvog ulaganja.

3. U skladu sa zakonima i propisima, svaka Strana ugovornica će u meri u kojoj je to moguće, učiniti javno dostupnim, svoje zakone, propise koji se odnose na ulaganja. Svaka Strana ugovornica će u skladu sa svojim zakonima i propisima obezbediti ulagačima druge Strane ugovornice pravo pristupa svjim sudovima, upravnim sudovima i agencijama, kao i svim drugim pravosudnim organima.

4. Reinvestiranje dobiti ostvarene po osnovu ulaganja koje se vrši u skladu sa zakonom Strane ugovornice na čijoj teritoriji je prvobitno ulaganje izvršeno, uživaće istu zaštitu kao i prvobitno ulaganje.

5. U slučaju likvidiranja ulaganja, likvidacionim sredstvima će biti dodeljena ista zaštita i tretman.

Nacionalni tretman i tretman najpovlašćenije nacije

Član 4.

1. Svaka Strana ugovornica će na svojoj teritoriji obezbediti ulaganjima i povratima ulaganja ulagača druge Strane ugovornice, tretman koji je jednako povoljan kao tretman koji se obezbeđuje ulaganjima sopstvenih ulagača ili ulaganjima i povratima ulaganja ulagača trećih država, zavisno od toga koji je povoljniji.

2. Svaka Strana ugovornica će garantovati, na svojoj teritoriji, ulagačima druge Strane ugovornice, u pogledu kupovine, razvoja, upravljanja, održavanja, korišćenja, ekspanzije, prodaje ili drugog otuđenja njihovih ulaganja, tretman koji je jednako povoljan kao tretman koji dodeljuje sopstvenim ulagačima ili ulagačima trećih zemalja, zavisno od toga koji je povoljniji.

3. Nijedna Strana ugovornica neće na svojoj teritoriji nametnuti obavezne mere za ulaganja ulagača druge Strane ugovornice u pogledu nabavke materijala, sredstava za proizvodnju, poslovanje, transport, marketing svojih proizvoda ili sličnih naloga koji imaju bezrazložan ili diskriminatorni efekat. Ovaj stav se ne primenjuje na mere preduzete u skladu sa zakonima i propisima u delu državnih nabavki robe i usluga na bilo kom nivou vlasti Strane ugovornice.

4. Odredbe st. 1. i 2. ovog člana neće se tumačiti kao obaveza Strane ugovornice da se podvrgne bilo kakvom drugom mehanizmu rešavanja sporova sa ulagačem druge Strane ugovornice osim onog koji je izričito predviđen u članu 9. ovog sporazuma.

5. Nezavisno od drugih bilateralnih sporazuma o ulaganjima koje je Strana ugovornica potpisala sa drugim državama pre ili nakon stupanja na snagu ovog sporazuma, tretman najpovlašćenije nacije se neće primenjivati na proceduralna i sudska pitanja.

6. Odredbe st. 1. i 2. ovog člana neće se tumačiti kao obaveza Strane ugovornice da ulagačima druge Strane ugovornice daje bilo kakvu prednost u tretmanu, preferencijal ili privilegije koje prva Strana ugovornica daje ulagačima iz neke treće države u okviru:

   (a) svog sadašnjeg ili budućeg članstva u carinskoj uniji ili ekonomskoj i monetarnoj uniji, slobodnoj trgovinskoj zoni, ili u sličnom međunarodnom sporazumu u kojima je Strana ugovornica jedna ili će biti jedna od strana.

   (b) bilo kakvog međunarodnog sporazuma ili aranžmana koji se u celosti ili delimično odnosi na oporezivanje.

Naknada štete ili gubitka

Član 5.

1. Kada ulaganje izvršeno od strane ulagača bilo koje Strane ugovornice pretrpi štetu ili gubitak usled rata ili drugog oružanog sukoba, civilnih nemira, vanrednog stanja, pobune, ustanka i sličnih događaja na teritoriji druge Strane ugovornice, ta Strana ugovornica će obezbediti, u pogledu naknade, povraćaja, obeštećenja ili drugog načina naknade štete, ulagačima druge Strane ugovornice, tretman koji je jednako povoljan kao tretman koji ta Strana ugovornica daje sopstvenim ulagačima ili ulagačima bilo koje treće države, koji god tretman je povoljniji.

2. Bez obzira na odredbe stava 1. ovog člana, ulagačima jedne Strane ugovornice koji, u bilo kojoj od situacija navedenih u tom stavu, pretrpe štetu ili gubitak na teritoriji druge Strane ugovornice, koja je posledica:

   (a) zaplene imovine koja im pripada, od strane organa vlasti druge Strane ugovornice, ili

(b) uništavanja njihove imovine od strane organa vlasti druge Strane ugovornice koje nije posledica oružanog sukoba i nije bilo neophodno usled nastale situacije,

obezbediće se bez odlaganja pravična i odgovarajuća naknada pretrpljene štete nastale zaplenom ili uništavanjem njihove imovine. Takva plaćanja će biti izvršena u valuti koja se može slobodno konvertovati i slobodno i bez odlaganja transferisati.

Eksproprijacija

Član 6.

1. Ulaganja ulagača bilo koje Strane ugovornice neće biti nacionalizovana, eksproprisana, niti podvrgnuta drugim merama po dejstvu jednakim nacionalizaciji ili eksproprijaciji (u daljem tekstu: eksproprijacija) na teritoriji druge Strane ugovornice, osim u sledećim slučajevima koji su ispunjeni kumulativno:

(a) za svrhu za koju je utvrđen javni interes,

(b) na nediskriminatornoj osnovi,

(v) u skladu sa zakonom i uz primenu zakona,

(g) uz adekvatnu,efikasnu naknadu koja će se izvršiti bez odlaganja.

2. Ovakva naknada će odgovarati fer tržišnoj vrednosti eksproprisanog ulaganja kakva je bila neposredno pre eksproprijacije ili pre nego što je eksproprijacija postala opšte poznata činjenica, u zavisnosti od toga šta je bilo pre.

3. Kada fer tržišna vrednost ne može da se utvrdi, naknada će biti utvrđena na odgovarajući način, uzimajući u obzir sve relevantne faktore i okolnosti, kao što su uloženi kapital, priroda i trajanje ulaganja, zamene, knjigovodstvenu vrednost i *goodwill.*

4. Nakanada će biti plaćena bez odlaganja, efikasna za realizaciju i slobodna za transferisanje.

5. Oštećeni ulagač Strane ugovornice će imati pravo, u skladu sa zakonima i propisima Strane ugovornice koja vrši eksproprijaciju, na hitno rešavanje njegovog predmeta, uključujući procenu njegovog ulaganja u skladu sa principima navedenim u ovom članu, od strane sudskog ili drugog nadležnog ili nezavisnog organa te Strane ugovornice.

6. Kada Strana ugovornica ekspropriše imovinu pravnog lica osnovanog na njenoj teritoriji u skladu sa njenim zakonima i propisima i u kojima ulagač druge Strane ugovornice učestvuje, ona će obezbediti da se odredbe ovog člana primenjuju na način da garantuje takvom ulagaču adekvatnu i efikasnu naknadu.

Transferi

Član 7.

1. Svaka Strana ugovornica će, u skladu sa svojim važećim zakonima i propisima, garantovati ulagačima druge Strane ugovornice, nakon plaćanja svih fiskalnih i drugih obaveza ulagača druge Strane ugovornice, slobodan transfer novčanih iznosa koji se odnose na njihova ulaganja, a naročito, mada ne i isključivo:

(a) uloženi kapital i dodatna sredstva za održavanje ili povećanje ulaganja;

(b) prihode od ulaganja;

(v) prihode od ukupne ili delimične prodaje ili likvidacije ulaganja;

(g) iznose naknada isplaćenih na osnovu čl. 5. i 6. ovog sporazuma;

(d) iznose naknada na osnovu člana 8. ovog sporazuma;

(đ) plaćanja na osnovu rešavanja investicionih sporova;

(e) zarade i ostale naknade angažovanih lica iz inostranstva u vezi sa ulaganjem;

(ž) profit i dobit od nacionalne avio kompanije.

2. Svaka Strana ugovornica će obezbediti da se transferi iz stava 1. ovog člana vrše bez nepotrebnog odlaganja, u konvertibilnoj valuti, koji će biti izvršen po zvaničnom kursu koji se primenjuje na dan transfera na teritoriji Strane ugovornice gde se ulaganje realizuje. U slučaju nepostojanja tržišta strane valute, kurs koji će biti korišćen je poslednji kurs predviđen za konverziju valuta u Posebnim Pravima Vučenja.

3. Nezavisno od st. 1. i 2. ovog člana, Strana ugovornica, u skladu sa svojim zakonima i propisima može, u dobroj nameri i po principima jednakosti i nediskriminatornosti, privremeno onemogućiti transfer i primeniti zakone i propise vezane za:

(a) zaštitu poverilaca u stečajnom postupku; i

(b) krivična dela.

Prenos prava (Subrogacija)

Član 8.

1. Ako Strana ugovornica ili njena ovlašćena institucija (za svrhe ovog člana u daljem tekstu: garant) izvrši plaćanje naknade štete sopstvenom ulagaču na osnovu garancije koju je dala za ulaganje na teritoriji druge Strane ugovornice, druga Strana ugovornica će priznati:

(a) prenos na garanta svih prava i potraživanja obeštećenog ulagača, do koga dolazi bilo na osnovu zakona ili na osnovu pravnog posla; i

(b) da je garant na osnovu subrogacije ovlašćen da ostvaruje takva prava ili realizuje takva potraživanja u istoj meri kao obeštećeni ulagač i da je dužna da preuzme obaveze koje se odnose na ulaganje.

2. Garant je ovlašćen u svim slučajevima na:

(a) isti tretman u pogledu prava, potraživanja i pribavljenih obaveza, po osnovu prenosa; i

(b) sve primljene isplate u skladu sa tim pravima i potraživanjima koje je obeštećena strana imala pravo da primi po osnovu ovog sporazuma, u vezi sa odgovarajućim ulaganjem i njegovim odgovarajućim povratom.

3. Prava i potraživanja koja su preneta subrogacijom ne mogu biti veća od prvobitnih prava i potraživanja ulagača.

4. Nezavisno od stava 1. ovog člana, subrogacija će biti izvršena u Strani ugovornici tek nakon odobrenja nadležnog tela te Strane ugovornice.

Rešavanje sporova između Strana ugovornica i ulagača druge Strane ugovornice

Član 9.

1. Ulagač koji ima spor sa Stranom ugovornicom će inicijalno pokušati da ga reši putem pregovora.

2. Da bi otpočeo pregovore, investitor će dostaviti Strani ugovornici pismeno zahtev. Pismeni zahtev sadrži:

a) ime i adresu ulagača u sporu;

b) odredbu Sporazuma za koju se tvrdi da je prekršena;

v) činjenični i pravni osnov za potraživanje/tvrdnju; i

g) traženi pravni lek i iznos štete koju potražuje.

3. Kada je traženo od Strane ugovornice, u slučaju da spor ne može biti rešen u roku od šest meseci od momenta prijema pismenog zahteva, spor će biti podnet nadležnim telima te Strane ugovornice ili odgovarajućim arbitražnim centrima, radi mirenja.

4. Ako se sporovi ne mogu mirno rešiti u roku od šest meseci od pismenog zahteva ili od početka mirenja iz stava 3. ovog člana, ulagač spor može podneti na rešavanje:

(a) od strane nadležnog suda ili drugog ovlašćenog tela Strane ugovornice na čijoj je teritoriji izvršeno ulaganje; ili

(b) ako spor ne može biti rešen u roku od šest meseci od dana podnošenja nadležnom sudu ili drugom ovlašćenom telu, bilo koja strana u sporu može podneti zahtev Međunarodnom centru za rešavanje investicionih sporova, u slučaju da su obe Strane ugovornice članice Konvencije o rešavanju investicionih sporova između država i državljana drugih država, otvorene za potpisivanje u Vašingtonu 18. marta 1965. godine, ili ad hoc arbitražnom sudu, osnovanom u skladu sa Arbitražnim pravilima Komisije Ujedinjenih nacija za Trgovinsko pravo (UNCITRAL), čije će sedište biti u državi tuženog, a organ imenovanja u smislu člana 6. stav 2. Arbitražnih pravila, biće Međunarodni arbitražni sud Međunarodne trgovinske komore, ili Međunarodnom arbitražnom sudu Međunarodne trgovinske komore (ICC) sa sedištem u Parizu/Ženevi.

v) U svakoj fazi mirovanja postupka pred sudovima, strane u sporu mogu povući tužbu u slučaju da postignu dogovor o rešavanju spora mirnim putem.

5. Arbitražna odluka biće konačna i obavezujuća za obe strane u sporu. Svaka Strana ugovornica će obezbediti njeno izvršenje na svojoj teritoriji, u skladu sa nacionalnim zakonodavstvom.

6. Ako su ulagač i ovlašćeno telo druge Strane ugovornice ili njen organ lokalne vlasti zaključili ugovor o ulaganju u kome su predvideli postupak za rešavanje sporova, primenjuje se postupak rešavanja sporova predviđen tim ugovorom.

Rešavanje sporova između Strana ugovornica

Član 10.

1. Sporovi Strana ugovornica u vezi sa tumačenjem ili primenom ovog sporazuma rešavaće se, po mogućnosti pregovorima.

2. Ako se spor između Strana ugovornica iz stava 1. ovog člana ne može rešiti na ovaj način u roku od šest meseci od dana započinjanja pregovora on će, na zahtev jedne Strane ugovornice, biti podnet arbitraži od tri člana.

3. Arbitražni sud će se konstituisati na ad hoc osnovi. Svaka Strana ugovornica će imenovati po jednog člana suda, a ova dva člana će odabrati trećeg člana - državljanina treće zemlje, koji će, uz saglasnost obe Strane ugovornice, biti imenovan za predsednika arbitražnog suda. Navedeni članovi, biće imenovani u roku od dva meseca od momenta kada je jedna Strana ugovornica obavestila drugu o svojoj nameri da podnese spor na rešavanje arbitraži.

4. Ako se u rokovima utvrđenim u stavu 3. ovog člana ne konstituiše arbitražni sud, svaka Strana ugovornica može, u odsustvu nekog drugog sporazuma, zatražiti od Predsednika Međunarodnog suda pravde da obavi potrebna imenovanja. Ako je Predsednik Međunarodnog suda pravde državljanin bilo jedne ili druge Strane ugovornice, ili ako je na drugi način sprečen da obavi ovu funkciju, zatražiće se od potpredsednika da u skladu sa Pravilima Suda pod istim uslovima obavi potrebna imenovanja, ili u slučaju njegove sprečenosti, od člana Međunarodnog suda pravde, sledećeg po rangu. Imenovani sudija treba da bude državljanin zemlje sa kojom Strane ugovornice imaju diplomatske odnose.

5. Arbitražni sud će uspostaviti sopstvena pravila postupka osim ako Strane ugovornice ne odluče drugačije.

6. Arbitražni sud će odlučivati na osnovu odredaba ovog sporazuma, kao i opšte prihvaćenih principa i pravila međunarodnog prava. Arbitražni sud donosi odluke većinom glasova; ove odluke su konačne i obavezujuće za obe Strane ugovornice.

7. Svaka Strana ugovornica će snositi troškove učešća svog arbitra i svojih pravnih zastupnika u arbitražnom postupku. Troškove Predsednika i preostale troškove podjednako će snositi obe Strane ugovornice. Arbitražni sud može, ipak, svojom odlukom odrediti na drugi način raspodelu troškova postupka.

Primena drugih odredaba

Član 11.

Bez obzira na član 4, ako zakoni bilo koje od Strana ugovornica, ili sadašnje ili buduće nastale obaveze između Strana ugovornica u skladu sa međunarodnim pravom, pored ovog sporazuma, dodatno sadrže odredbe, bilo opšte ili pojedinačne, kojima se ulaganjima ulagača druge Strane ugovornice, daje tretman koji je povoljniji od tretmana koji se obezbeđuje ovim sporazumom, takva pravila će, u meri u kojoj su povoljniji, imati prednost nad ovim sporazumom.

Primena Sporazuma

Član 12.

Odredbe ovog sporazuma odnose se na ulaganja koja su ulagači jedne Strane ugovornice realizovali na teritoriji druge Strane ugovornice pre kao i posle stupanja na snagu ovog sporazuma, s tim što se neće primenjivati na sporove ili potraživanja koja su nastala pre njegovog stupanja na snagu, ali će se sporovi koji su u toku u momentu stupanja na snagu ovog sporazuma biti rešavani po ovom sporazumu.

Konsultacije

Član 13.

Strane ugovornice će održati konsultacije, na zahtev jedne od njih, u vezi sa pitanjima koja se odnose na primenu ovog sporazuma. Konsultacije će se održati na predlog jedne Strane ugovornice u mestu i u vreme koje će se ugovoriti diplomatskim putem.

Ograničenje privilegija

Član 14.

1. Privilegije ovog sporazuma neće biti dostupne ulagaču koji dobije državljanstvo treće strane, u cilju ostvarivanja privilegija po ovom sporazumu, koje mu u drugom slučaju ne bi bile dostupne.

2. Pre nego se uskrate privilegije po ovom sporazumu, Strana ugovornica koja poriče takvo pravo, obavestiće drugu Stranu ugovornicu.

Stupanje na snagu, izmene,
trajanje i prestanak važenja Sporazuma

Član 15.

1. Sporazum stupa na snagu na dan prijema kasnijeg obaveštenja diplomatskim putem kojim svaka Strana ugovornica obaveštava drugu Stranu ugovornicu o ispunjenju zakonom predviđenih uslova koji se moraju ispuniti radi stupanja na snagu ovog sporazuma.

2. Ovaj sporazum se može izmeniti pismenim putem uz saglasnost obe Strane ugovornice. Te izmene će stupiti na snagu u istom postupku kao i ovaj sporazum.

3. Ovaj sporazum se zaključuje na period od deset godina i automatski će nastaviti da važi u sukcesivnim periodima od po deset godina, osim ako jedna Strana ugovornica pismeno ne obavesti drugu Stranu ugovornicu, najmanje godinu dana pre isteka inicijalnog ili narednog perioda važenja roka, o svojoj nameri da raskine Sporazum. U tom slučaju, prestanak će stupiti na snagu po isteku trenutnog perioda od deset godina.

4. Kada se radi o ulaganjima realizovanim pre isteka roka važenja ovog sporazuma odredbe ovog sporazuma i dalje će važiti u periodu od narednih deset godina od datuma stupanja na snagu raskida sporazuma.

5. Ovaj sporazum će važiti nezavisno od postojanja diplomatskih i konzularnih odnosa između Strana ugovornica.

U POTVRDU ČEGA su dole potpisana lica, valjano ovlašćena, potpisala ovaj sporazum.

Potpisano u Abu Dabiju dana 17. februara 2013. godine u dva originala, svaki na srpskom, arapskom i engleskom jeziku pri čemu su sva tri teksta podjednako autentična. U slučaju bilo kakve razlike u tumačenju, merodavan je tekst na engleskom jeziku.

ZA REPUBLIKU SRBIJU	**ZA UJEDINjENE ARAPSKE EMIRATE**
Aleksandar Vučić, s.r. **Prvi potpredsednik Vlade i ministar odbrane**	**Abdullah bin Zayed Al Nahyan, s.r.** **Ministar spoljnih poslova**

AGREEMENT

between

THE REPUBLIC OF SERBIA

AND

THE UNITED ARAB EMIRATES

ON

THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

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

Desiring to promote greater economic co-operation between them, with respect to investments made 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, constituted and otherwise duly organise under the laws and regulations of that Contracting Party having its headquarters in the territory of that Contracting Party and making investments in the territory of the other Contracting Party.–Government of Contracting party.
2. The term "investment" means every kind of asset invested, established or acquired by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the latter and in particular, though not exclusively, shall include: -
   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 to legitimate performance having financial value related to an investment;
   d. intellectual property rights,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 any widely used in international transactions and is traded in prinicipal exchange markets.

5. The term “territory” means in respect to:

   a. The Republic of Serbia: means the area over which the Republic of Serbia exercises, in accordance with its national laws and regulations and international law, sovereign rights and jurisdiction, and when used in a geographical sense it means the territory of the Republic of Serbia;

   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 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, seabed 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.

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, usem expanasion sale and if it’s the case, the liquidation of such investments.

3. In accordance with its laws and regulations, each Contracting Party shall as far as possiple make publicly available, its laws, regulations that pertains to investments.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.

4. Reinvestment of a profit gained from an investment performed in accordance with law of a Contracting Party in which territory initial investment had been performed, shall enjoy the same protection as well as the initial investment.

5. 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, 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. 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 procurment of goods and services at any level of the government of the Contracting Party.

4. The provisions of paragraphs 1 and 2 of this Article shall not be construed so as to oblige one Contracting Party to be submitted to any other mechanism of dispute settlement with investor of other Contracting Party except those explicitly provided in the Article 9 of this Agreement.

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

1. 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 realizable 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 its laws and regulations in force in the territory of the Contracting Party, each Contracting Party shall, upon payment of all fiscal and other financial obligations of investors of the other Contracting Party, guarantee to

the investors of the other Contracting Party, free transfers of amounts to money related to their investments including in particular, though not exclusively:

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

b. returns;

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

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

e. payments under Article 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.

h. Profits and returns of national airlines.

2. Each Contracting Party shall ensure that the transfers under paragraph 1 of this Article are made without unreasonable delay and 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.

2. 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.

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 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 or other authorised body of the Contracting Party in whose territory the investment is made; or
   b- If the dispute cannot be settled within six months from the date of submission to the competent court or other authorised body, either party to the dispute may submit the claim to the International centre for the settlement of Investment Disputes (ICSID), in accordance with the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, open for signature since 18.March.1965 in Washington DC, or ad hoc arbitral tribunal established in accordance to the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), with a headquarters established in the State of respondent, designation authority in accordance with the paragraph 2 of Article 6 of the Arbitration rules, shall be Court of Arbitration of the International Chamber of Commerce, or Court of Arbitration of the International Chamber of Commerce (ICC), with the place of arbitration in Paris/Geneva.
   c- At any stage during the cooling off period or the proceeding of the tribunals, the parties to the dispute shall withdraw the case if they come to an agreement for settlement of the dispute amicably.
5. The arbitration decisions shall be final and binding for the Parties to the dispute. Each Contracting Party undertakes to execute the decisions in accordance with its national law.
6. 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 rules 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 , however the ongoing dispute befor the entry into of this Agreement shall be sttled by this Agreement.

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 who obtains a nationlality of a third party, for the purpose of obtaining the benefits under this Agreement that would not otherwise be available to him.
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 17/2/2013 in duplicate, in the Serbian, 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 SERBIA	FOR THE UNITED ARAB EMIRATES
Aleksandar Vucic, s.r. **First Vice President of the Government & Minister of Defense**	**Abdullah bin Zayed Al Nahyan, s.r.** **Minister of Foreign Affairs**

Član 3.

Ovaj zakon stupa na snagu osmog dana od dana objavljivanja u „Službenom glasniku Republike Srbije-Međunarodni ugovori”.