

AGREEMENT BETWEEN THE SLOVAK REPUBLIC AND

THE GREAT SOCIALIST PEOPLES LIBYAN ARAB

JAMAHIRIYA

ON THE PROMOTION AND PROTECTION OF INVESTMENTS

The Slovak Republic and the Great Socialist Peoples Libyan Arab Jamahiriya (hereinafter called as Contracting Parties)

Desiring to create favorable conditions for greater economic cooperation between the two Contracting Parties and in particular to stimulate investments by investors of one State in the territory of the other State, and

Conscious that the encouragement and reciprocal guarantee and protection of such investments will be conducive to the stimulation of the economic cooperation between both Contracting Parties;

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. Investment means any kind of assets owned or controlled by investors of one of the Contracting Parties which are invested in the territory of the other Contracting Party, pursuant to the laws and regulations of this latter, and in particular, though not exclusively, includes:

- a) movable and immovable property and any other related property or other property right such as mortgages, pledges or liens as defined in accordance with the laws and regulations of the Contracting Party in whose territory the investment is made;
- b) shares, stock, bond and debentures and any other form of participation in companies and rights or interest derived therefrom;
- c) claims to money or any payments under loans or any other claim to performance under investment contract having an economic value;
- d) intellectual property rights, including copyrights, patents, trademarks, industrial designs, know-how, trade-names, trade secret and goodwill and other similar rights;
- e) concessions conferred by law or under contract, especially any concessions relating to the search for, exploitation or cultivation of natural resources.

Any authorized alteration in the form of investment or reinvestment of funds will not affect its character as an investment.

2. Investor means:

- a) any natural person bearing the citizenship of any Contracting Party in accordance with its laws and regulations;
- b) any legal person means any entity, which is incorporated or constituted in accordance with the laws and regulations of one of the Contracting Parties and which has its registered office, central administration or principal place of business in the territory of one of the Contracting Parties. However, should such a legal person have only its registered office in the territory of one of the Contracting Parties, its operations must possess a real and continuous link with the economy of one of the Contracting Parties.

3. Territory means all lands over which either of the Contracting Parties exercises sole jurisdiction thereon; that includes seabed submarine, internal waters and the over flying airspace, which are all subject to practice of sovereignty right

according to the international law.

4. Returns means the amounts yielded by an investment and in particular, though not exclusively, includes profit, earning quotas, capital gains, dividends, royalties and fees.

5. Convertible currency means any convertible currency which is valid in international commercial transactions, and in circulation within the main international exchange markets.

6. Public purpose means as established under the laws and regulations of each of the Contracting Parties.

Article 2.

PROMOTION AND PROTECTION OF INVESTMENTS

For realizing the goals of this Agreement:

1. Each Contracting Parties shall promote and create favorable conditions for investors of the other Contracting Party to make in its territory investments that are in accordance with its laws and regulation.
2. Subject to its laws and regulations, each Contracting Party shall admit investments of investors of the other Contracting Party.
3. Investments of investors of either Contracting Party shall at all times be accorded fair-and-equitable treatment and shall enjoy full protection and security from unlawful governmental measures in the territory of the other Contracting Party in accordance with this Agreement.
4. Neither Contracting Party shall in its territory impair by unreasonable or arbitrary measures the operations, management, maintenance, use, enjoyment, sale, liquidation or disposal of investments in the territory by investors of the other Contracting Party.

Article 3. National and Most Favoured Nation Treatment

1. Each Contracting Party shall in its territory accord to the investors of the other Contracting Party or their investments and returns treatment, which is fair and equitable and not less favorable than that, which it in like circumstances accords to its own investors and their investments and returns or to investors of any third State or their investments and returns, whichever is more favorable.
2. The provisions of this Agreement relative to the granting of treatment not less favorable than that accorded to its own investors or to the investors of any third State shall not be construed so as to oblige one Contracting Party to extend to the investors of tire other Contracting Party the benefit of any treatment, preference or privilege resulting from:
 - a) its membership in any existing or future customs union or free trade area or a common market or a monetary union or similar international agreement or other forms or regional cooperation to which either of the Contracting Parties is or may become a party; or the adoption of an agreement designed to lead to the formation or extension of such a union or area within a reasonable length of time; or
 - b) any international agreement or arrangement relating wholly or mainly to taxation.

Article 4. Compensation for Losses

1. An investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, revolution, a state of national emergency, insurrection or riot or any other similar event in the territory of the latter Contracting Party shall be accorded by the latter Contracting Party, as regards restitution, indemnification, compensation or other settlement, treatment no less favorable than that which the latter Contracting Party accords to its own investors or to investors of any third State, whichever is more favorable.
2. An investor of a Contracting Party who in any of the events referred to in paragraph (1) of this Article suffers losses in the territory of the other Contracting Party resulting from:
 - a) requisition of their property by forces or authorities of the other Contracting Party; or
 - b) destruction of their property by forces or authorities of the other Contracting Party which was not caused in combat action or was not required by the necessity of the situation,

Shall in any case be accorded by tire latter Contracting Party restitution or compensation which in either case shall be prompt, adequate and effective and, with respect to compensation, shall be in accordance with the Article 6.

Article 5. Free Transfers

1. Each Contracting Party shall guarantee, when requested by an investor of the other Contracting Party, after fulfillment of their financial obligations and subject to its laws and regulations, free transfer of payments in connection with an investment in its territory, in particular, though not exclusively:

- a) the initial capital and any additional capital used to maintain or expand the investment;
- b) returns, royalties and other income resulting from investments;
- c) proceeds from the sale or partial sale or liquidation of the investment;
- d) repayments made under loans in connection with an investment including interest due;
- e) any compensation owed to an investor by virtue of tire Article 6 and of the Article 4 of this Agreement; and
- f) wages and other remuneration accruing to a personnel of the other Contracting Party who was permitted to work in connection with an investment in its territory.

2. The transfers referred in the paragraph (1) of this Article shall be effected without delay in the convertible currency in which the capital was originally invested or in any other convertible currency agreed by the investor and the Contracting Party concerned. Transfers shall be made at the rate of exchange applicable on the date of transfer.

3. Notwithstanding paragraphs (1) and (2) above, a Contracting Party may adopt or maintain temporary measures not exceeding three (3) months period relating to cross-border capital transactions:

- a) in the event of serious balance of payments and external financial difficulties or threat thereof; or
- b) in cases where, in exceptional circumstances, movements of capital cause or threaten to cause serious difficulties for macroeconomic management, in particular, monetary and exchange rate policies.

4. Measures referred to in paragraph (3) of this Article:

- a) shall be consistent with the Articles of Agreement of International Monetary Fund;
- b) shall not exceed those necessary to deal with the circumstances set out in paragraph (3) of this Article;
- c) shall be temporary and eliminate as soon as conditions permit;
- d) shall be promptly notified to the other Contracting Party;
- e) shall be imposed on an equitable, non-discriminatory and in a good faith basis.

Article 6. Expropriation and Compensation

1. Pursuant to this Agreement, the investments of each of Contracting Parties in the territory of the other Contracting Party shall not be subject to any nationalization, expropriated or subject to measures having an effect equivalent to nationalization or expropriation (hereinafter referred to as expropriation) in the territory of the other Contracting Party, except for a public purpose, under due process of law, on a non-discriminatory basis and against prompt, adequate and effective compensation.

2. Such compensation shall be based on the real value of the investment at the time of the expropriation, shall be payable from the date of expropriation at a normal commercial rate of interest, shall be paid without delay and shall be effectively realizable and freely transferable.

3. The investor affected shall have a right, under the laws and regulations of the Contracting Party making the expropriation, to prompt review, by a judicial or other independent authority of that Contracting Party, of its case and of the valuation of its investment in accordance with principles set out in this Article. If the expropriation subject is a common project in the territory of the one of the two Contracting Parties, the compensation value payable to the affected investor of the

Other Contracting Party shall be assessed on the basis of his portion in this common project.

Article 7.

SUBROGATION

If a Contracting Party or its designed agency makes a payment to its own investors under a guarantee or contract of insurance accorded to an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognize:

- a) the assignment, whether under the law or pursuant to a legal transaction, of any right or title in respect of such investment to the former Contracting Party or its designated agency, as well as;
- b) that the former Contracting Party or its designated agency is entitled by virtue of subrogation to exercise to the extend the rights and enforce the claims of that investors and shall assume the obligation related to the investment.

Article 8. Settlement of Disputes between a Contracting Party and an Investor of the other Contracting Party

1. In the event of a dispute between a Contracting Party and an investor of the other Contracting Party relating to an investment, the Contracting Parties to the dispute shall initially seek to resolve the dispute amicably by consultations and negotiations.
2. If the dispute in question cannot be resolved amicably within six (6) months from written notification, the investor shall be entitled to submit the case either to:
 - a) the International Centre for the Settlement of Investment Disputes (the ICSID) established by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the Convention), opened for signature in Washington on 18 March 1965 provided that tire Contracting Parties are both parties to the Convention; or
 - b) the Additional Facility Rules of ICSID, provided that either the disputing Contracting Party or the Contracting Party of the investor, but not both, is a party to the ICSID Convention;
 - c) an arbitration tribunal established ad hoc in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).
3. An investor may submit a dispute under this Article to arbitration, only if the investor waive the right to initiate or continue before any administrative tribunal
Or court under the law of any Contracting Party, or other dispute settlement procedure, any procedure with respect of the disputing Contracting Party that is alleged to be a breach referred to in paragraph (2) of this Article, except for procedures for injunctive, declaratory or other extraordinary character, but not involving payment of damages, before an administrative tribunal or court under the laws of the disputing Contracting Party.
4. The arbitration tribunal shall take its decisions in accordance with the provisions of this Agreement, the laws and regulations of the Contracting Party involved in the dispute, the rules of conflict of laws which the arbitration tribunal considers applicable, the terms of any specific agreement concluded in relation to the particular investment involved and the relevant principles of international law.
5. Neither Contracting Party shall have the right to make counter claim, as a defense, at any stage of arbitration or within the execution of arbitration decision for the reason that the investor of the other Contracting Party in the dispute has receive or will receive, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of any alleged loss.
6. The decisions of the arbitration shall be definitive and binding for the parties of disputes, and the two parties shall recognize and execute them.

Article 9. Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation and application of the present Agreement shall be settled amicably through consultations.
2. If the dispute cannot be settled within a time of six (6) months after the commencement of negotiations, it shall be at the request of either Contracting Party to an arbitral tribunal in accordance with this Article. Such arbitral tribunal shall be

constituted for each individual case in the following way. Within three (3) months of the notification for arbitration, each Contracting Party shall appoint one member of the arbitral tribunal. Those two members shall then select a national of a third State who on approval by the two Contracting Parties shall be appointed Chairman of the arbitral tribunal. The Chairman shall be appointed within two (2) months from the date of appointment of the other two members.

3. If within the periods specified in paragraph (3) Article the necessary appointments have not been made, either Contracting Party may invite, in the absence of any other agreement, 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 one of the Contracting Parties or he is prevented from discharging the said function, the respective appointments shall be made by the Vice President of the International Court of Justice. If the Vice President is a citizen of either of the Contracting Parties or if he too is prevented from discharging the said function,

The respective appointments shall be made by the Member of the International Court of Justice next in seniority who is not a citizen of either Contracting Party.

4. The arbitral tribunal shall, by a majority of votes, reach its decision on the basis of the provisions of this Agreement and other agreements between the two Contracting Parties, where relevant, and on the general principles and rules of international law. Such decision shall be binding on both Contracting Parties. The arbitral tribunal shall determine its own procedures.

5. Each Contracting Party shall bear the cost of its own member of the arbitral tribunal and of its representation in the arbitral proceeding; the cost of the Chairman and the remaining costs shall be borne in equal parts by the Contracting Parties, The arbitral tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two Contracting Parties.

Article 10. Other International Agreement

When a matter is covered both by the provisions of this Agreement and any other international agreement to which both Contracting Parties are bound, nothing in this Agreement shall prevent an investor of one Contracting Party that has investments in the territory of the other Contracting Party from benefiting the most favorable provisions.

Article 11. Scope of Application of Agreement

The provisions of this Agreement shall be applicable for the investments existed after the entry in force of this Agreement.

Article 12. Duration and Termination

1. Each Contracting Party shall notify the other in writing of the completion of constitution formalities required in this territory for the entry into force of this Agreement. This Agreement shall enter into force ninety (90) days after the later notification.

2. This Agreement shall remain in force for a period of ten (10) years. Thereafter it shall continue in force until the expiration of twelve (12) months from the date on which either Contracting Party shall have given written notice of termination to the other.

3. In respect of investments made or acquired prior to the date of termination of this Agreement, the provisions of all of the other Articles of this Agreement shall

Continue to be effective for a period of five (5) years from such date of termination.

4. This Agreement may be amended in writing by mutual consent of both Contracting Parties at any time after it is in force. Any alteration or modification of this Agreement shall be done without prejudice to the rights and obligations arising from this Agreement prior to the date of such alteration or modification until such rights and obligations are fully implemented.

IN WITNESS WHEREOF, the undersigned, duly authorized by their respective authorities, have signed the present Agreement.

SIGNED at the^P'.ff..^V:

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The Slovak, Arabic and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For

The Slovak Republic

For

The Great Socialist People's Libyan

Arab Jamahiriya - - - *