

# **Agreement between the Government of the Republic of Uzbekistan and the Government of the Kyrgyz Republic on the Mutual Promotion and Protection of Investments**

The Government of the Republic of Uzbekistan and the Government of the Kyrgyz Republic, hereinafter referred to as "Contracting Parties"

Wanting a long-term basis to promote greater economic cooperation between them for the mutual benefit of both countries,

Recognizing the need for the promotion and protection of investments with the aim of creating and maintaining favorable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party,

Agreeing that a stable basis for investment will maximize effective use of economic resources and the development of productive forces,

Have agreed as follows:

## **Article 1. General Definitions**

For the purposes of this Agreement:

1. The term "investor" covers and includes:

- i) the state of the Contracting Parties;
- ii) legal persons of the Contracting Parties;
- iii) citizens, associations of citizens and stateless persons of the Contracting Parties;
- iv) The citizens of the Contracting Parties, permanently residing abroad.

2. "Investment" are all kinds of assets and rights to them, as well as intellectual property rights invested by investors of one Contracting Party in the objects of entrepreneurial and other activities in order to generate profit (income) in the territory of the other Contracting Party.

3. Investments in the territory of the Contracting Parties shall be effected by:

- i) creation of corporations and companies, banks, insurance companies and other enterprises, completely belonging to investors or on the basis of equity participation;
- ii) the acquisition of property, shares and other securities;
- iii) the acquisition of property rights, including rights of ownership and use of land (including on a rental basis) and natural resources;
- iv) Other activities for the implementation of investments does not contradict the legislation in force in the territory of the Contracting Parties to the place of investment.

Changing the form in which the original or re-invests values, does not change its qualification as an investment.

4. The term "legal person" means any legal entity established in accordance with the legislation of one Contracting Party to make investments in the territory of the other Contracting Party.

5. The term "nationals" means persons who have a nationality and legal capacity for the state legislation of one Contracting

Party permanently residing on its territory or abroad and carry out investments in the territory of the other Contracting Party.

6. The term "stateless person" means a stateless person permanently residing in the territory of one Contracting Party, registered under the laws of that Contracting Party for the conduct of business and other activities and carry out investments in the territory of the other Contracting Party.

7. The term "income" means, but not exclusively, the sums obtained by the implementation of the investment, as defined in points 2 and 3 of this Article in the form of profits, interest, dividends, royalties, license and commission fees, payments for technical assistance, maintenance and other forms of remuneration received by legal means.

8. The term "territory" means, as the territory of one Contracting Party, over which the Contracting Party exercises, in accordance with international law, sovereign rights and jurisdiction.

## **Article 2. Promotion and Protection of Investments**

1. Each Contracting Party shall, in accordance with its laws and regulations will allow and encourage in its territory investments of investors of the other Contracting Party, and to ensure these investments a full and unconditional legal protection.

2. Within the framework of its laws and regulations, each Contracting Party will support the various forms of mutual investment and ensure economic cooperation through the protection in the territory of the investments of investors of the other Contracting Party.

3. The Contracting Parties shall proceed from the need to assist companies with investments of investors of the Contracting Parties in the performance of direct investment and the implementation of multilateral economic projects on the territory of the Contracting Parties.

4. If a Contracting Party under this Agreement has admitted to the territory of his state investments such other Contracting Party in accordance with its laws and regulations to investors of the other Contracting Party shall issue the necessary permits in connection with such investments.

## **Article 3. National Treatment and Most Favored Nation Treatment**

1. Each Contracting Party shall provide in its territory investments and the income of investors of the other Contracting Party fair and equitable treatment no less favorable than that it accords to investments and revenues of its own investors and / or investments and returns of investors of any third state.

2. Each Contracting Party shall in respect of investments made by investors of the other Contracting Party shall comply with any obligations arising out of its national laws and this Agreement.

3. The provisions of this Agreement with respect to the principle of most favored nation treatment shall not be construed so as to oblige one Contracting Party to extend to investors of the other Contracting Parties preferential treatment preferences or privileges resulting from:

- i) existing or possible future customs, currency and payments unions, free trade areas and common tariffs, common market or any other form of regional economic integration agreements, to which is or may become a Contracting Party;
- ii) agreements on avoidance of double taxation and the payment of taxes or other international agreements on taxation.

## **Article 4. Application of other Rules and Special Commitments**

If the provisions of the state law of one Contracting Party or obligations related to international law existing at present or established hereinafter, in addition to this Agreement contain provisions of general or specific nature of the provision of investment of investors of the other Contracting Party to treatment more favorable than that, which is provided in this Agreement, these provisions to the extent in which they are more favorable, will have priority over the present Agreement.

## **Article 5. Transfers of Funds**

1. The Contracting Party in the territory of which the investments were made by investors of the other Contracting State Party after the payment of these investors relevant taxes, duties and charges, provided in accordance with the legislation of the Parties, transfer of payments relating to these investments, in particular, but not exclusively,;

- i) interest, dividends, profits and other current income, as defined in paragraph 7, Article 1 of this Agreement;
- ii) amounts in repayment of loans, recognized by both Contracting Parties as investments;
- iii) licensing revenue and other payments deriving from the rights provided for in paragraph 2, Article 1 of this Agreement;
- iv) Capital and additional sums necessary for the maintenance or development of, and investment management carried out on the territory of the other Contracting Party;
- v) the proceeds of disposition, the partial or complete liquidation of investments, including capital gains;
- vi) Wages received by nationals of one Contracting Party in connection with investments made in the territory of the other Contracting Party;
- vii) Compensation entitlement in accordance with the articles of this Agreement and other payments associated with any investment disputes under this Agreement.

2. Transfers will be made in the currency in which the investments were made, or in a freely convertible currency at the rate applicable to the date of transfer and in accordance with the procedure laid down in the laws of the State of the Contracting Party in whose territory the investment has been made.

3. Notwithstanding the provisions of this article, a Contracting Party may prohibit the transfer on the terms of a fair, non-discriminatory application of the law of its State in cases involving:

- i) bankruptcy, insolvency or the protection of the rights of creditors;
- ii) issuing, trading, or trading in securities;
- iii) criminal or administrative offenses;
- iv) Occurrence of non-compliance with the order or decision of a judicial proceedings;
- v) other cases in accordance with the law of the parties.

4. The income and other amounts in any currency referred to in this article and the resulting state investors of one Contracting Party as a result of investments made in the territory of the other Contracting Party of the sources of the place of investment, can be reinvested or used for other purposes on the territory of the latter Contracting State Parties in accordance with its legislation.

5. Import and export of currency of the Contracting Parties and other countries currency, payment documents, securities shall be made according to the law on currency regulation legislation of the Contracting Party at the place of investment.

## **Article 6. Deprivation and Restriction of the Right of Property and Compensation for Losses**

1. The Contracting Parties shall take no action directly or indirectly to seize, nationalization or other action having the same nature or equivalent effects, in relation to investments belonging to investors of the other Contracting Party, if they are not related to the measures taken in law in the public interest on a non-discriminatory basis, or adopted in response to the actions that have been taken by the other Contracting Party.

2. A Contracting Party which has carried out disinvestment due to circumstances envisaged in paragraph 1 of this Article would provide the investors of the other Contracting Party compensation. Such compensation will correspond to the market value of the seized investments, defined as to withdrawal or until the decision to withdraw was a well-known (in whichever occurs first), will include a percentage of the value of the seized investment is calculated at the 'Libor' rate of the withdrawal date, and be freely transferable. The amount of compensation must be established in the currency in which the investments were made, or in a freely convertible currency and paid without undue delay to the investor, regardless of its location or residence. Transfer "without undue delay" shall be deemed transfer produced during the time normally required for the implementation of formal actions related to the transfer. Account for this period begins with the date of filing the application, and can not exceed three months.

3. State Investors of one Contracting Party whose investments have suffered losses owing to war or other armed conflict, revolution, a state of emergency, revolution, civil unrest or other such events that took place on the territory of the other Contracting Party will be given compensation, restitution, compensation or other cost award damages on terms no less favorable than those that would be provided to its own investors or investors of any third state.

4. Investors of one Contracting Party shall have the right to recover damages, including lost profit, caused by their investments in the territory of the other Contracting Party as a result of actions of state bodies or officials of that Contracting Party, contrary to the laws of the state in the place of investment, as well as due to the inadequate implementation such bodies or officials stipulated by the legislation of the obligations towards investors of the first Contracting Party or enterprises with these investments.

## **Article 7. Subrogation**

1. If one Contracting Party or its authorized institutions granted any financial guarantee against non-commercial risks in respect of investments of its investors, carried out on the territory of the other Contracting Party, and made a payment under this guarantee, the other Contracting Party on the basis of subrogation acknowledges the transfer of rights, including the rights and demands of the investors in full by the former Contracting Party or its authorized institutions, with reservations in respect of the obligations of the investors relating to insured investments in such a way.

2. In the case of subrogation defined in paragraph 1 of this article, the investor does not speak with the requirements, if it is not authorized to the Contracting Party or its authorized institution.

3. A Contracting Party party to the dispute with the state investor of the other Contracting Party during the whole process of its authorization or implementation of the decision on it should not be invoked as a defense to your immune system, or to receive compensation investor relying on insurance contracts do not provide for the provision of guarantees the latter Contracting Party or its authorized institutions and covers the entire amount or a portion of the loss or destruction.

## **Article 8. Consultations**

Each Contracting Party may propose the other Contracting Party to consult on any matter concerning the interpretation or application of this Agreement. The other Contracting Party shall favorably on the proposal and provide adequate opportunity for such consultations.

## **Article 9. Settlement of Disputes between the Contracting Parties**

1. Disputes between the Contracting Parties concerning the interpretation and application of the provisions of this Agreement shall be settled through diplomatic channels, through negotiations and consultations.

2. If the Contracting Parties will not be agreed within six months of the date of the dispute, at the request of either Contracting Party, the dispute shall be referred to the Court of Arbitration composed of three members. Each Contracting Party shall appoint one arbitrator, and the arbitrators appointed shall elect a President, who shall be a citizen of a third country maintains diplomatic relations with the states of both Contracting Parties.

3. If either Contracting Party fails to appoint its arbitrator and does not agree with the invitation of the second Contracting Party shall hold such appointment within two months, the latter Contracting Party may request the President of the International Court of Justice, so that it make the necessary appointments.

4. If both arbitrators can not reach an agreement within two months after their appointment to the Chairman of the selection, either Contracting Party may request the President of the International Court of Justice to conduct the required destination.

5. If, in cases referred to in paragraphs 3 and 4 of this Article, the President of the International Court of Justice can not perform the said function or if he is a national of one Contracting Party, the appointment shall be made Vice-President, and if he can not perform the appropriate function or is a national of the state of one Contracting Party, the appointment will be made the next most senior member of the International Court of Justice who is not a national of either Contracting Party.

6. The court will decide on the basis of respect for the law. Before the Court decides, it may at any stage of their work to offer the Contracting Parties to settle the dispute amicably. The preceding provisions shall not prevent the resolution of the dispute, if the Contracting Parties so decide.

7. Without prejudice to other arrangements between the Contracting Parties, the Court will establish its own rules of procedure. The Court shall decide by majority vote.

8. Each Contracting Party shall bear the costs of the member of his Court, and in accordance with its share in the arbitration procedure. Costs associated with the President of the arbitral tribunal and other expenses borne by the Contracting Parties in equal parts. However, the Court may, in its decision to determine the higher costs involved in one of the Contracting Parties, and this decision will be binding for each Contracting Party.

9. The Court's decisions are final and binding for each Contracting Party.

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

Each Contracting Party hereby consents to propose for the consideration of any legal dispute arising between one Contracting Party and an investor of the other Contracting Party in respect of investments carried out by them in the territory of the first Contracting Party to the International Centre for Settlement of Investment Disputes through conciliation or court in accordance with the "Convention on the Settlement of investment disputes between States and nationals of other States", opened for signature in Washington on March 18, 1965. Investors of one Contracting Party, which until the beginning of the dispute was controlled by an investor of the other Contracting Party shall be in accordance with Article 25 (2 - b) of the Convention in pursuance of objectives of the Convention have the same rights as the investors of the other Contracting Party.

## **Article 11. Applicable Law**

1. Unless otherwise provided in this Agreement, all investments in accordance with this Agreement shall be governed by the laws applicable in the territory of the Contracting Party in which the investment was made.

2. Notwithstanding the provisions of paragraph 1 of this Article, nothing limits the receiving Party from applying measures to protect its vital interests and national security issues, or in circumstances of emergency, implemented in accordance with its legislation on non-discriminatory basis.

## **Article 12. Previous Investments**

This Agreement shall apply to investments in the territory of one Contracting Party produced in accordance with its legislation by investors of the other Contracting States Parties, regardless of whether they were made before or after the entry into force of this Agreement.

## **Article 13. Changes and Amendments**

This Agreement may be amended and supplemented by written agreement of the Contracting Parties.

## **Article 14. Entry Into Force, Duration and Termination**

1. The Contracting Parties shall exchange notes on the implementation of the legal procedures provided for by national laws of the States of the Contracting Parties with regard to the entry into force of this Agreement.

The date of entry into force of this Agreement is the date of receipt of the last note.

2. This Agreement shall remain in force for ten years. This Agreement shall be automatically renewed for successive five-year periods, unless either Contracting Party twelve months before the expiry of the relevant period notifies in writing the other Contracting Party of its intention to terminate this Agreement.

This Agreement may also be terminated upon expiration of six months from the date of receipt by one Contracting Party of written notice to the other Contracting Party of its intention to terminate the Agreement.

3. In the event of denunciation of this Agreement, its provisions 1 - 12 will remain in force for a further period of ten years in relation to investments made before the termination of this Agreement.

Done in two originals December 24, 1996 in Tashkent, each in Uzbek, Kyrgyz and Russian languages, all texts being equally authentic.

For the purposes of interpretation of this Agreement, the text in Russian prevails.