

AGREEMENT BETWEEN THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN AND THE GOVERNMENT OF TURKMENISTAN ON THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

PREAMBLE

The Government of the Islamic Republic of Iran and the Government of Turkmenistan, hereinafter referred to as the "Contracting Parties",

Desiring to establish and intensify economic cooperation to the mutual benefit of both States,

Intending to create and maintain favorable conditions for investments of investors of one Contracting Party in the territory of the other Contracting Party, and

Recognizing the need for the protection of investments of investors of both Contracting Parties in the territory of the other Contracting Party,

Have agreed as follows:

Article 1. Definitions

For the purpose of this Agreement:

1 The term "investment" refers to every kind of asset, invested by investors of one Contracting Party in the territory of the other Contracting Party:

a Movable and immovable property as well as rights related thereto, such as mortgages, liens, pledges or usufruct;

b Shares or any kind of participation in companies;

c claim to money or to any performance having an economic value;

d Intellectual and industrial property rights such as patents, utility models, industrial designs or models, trademarks, and trade names, know-how and goodwill;

e Rights to search for, extract or exploit natural resources in accordance with laws and regulations of the Contracting Parties.

2 The term "investor" refers to the following persons of either Contracting Party:

a Natural persons possessing the nationality of one of the Contracting Parties in accordance with its laws.

b Legal persons of either Contracting Party which are established under the national laws of that Contracting Party, and their headquarters and their real economic activities are located in the territory of that Contracting Party.

3 The term "certificate of acceptance" with regard to the Islamic Republic of Iran and "certificate of State registration" with regard to Turkmenistan means special license provided by the competent authorities of a Contracting Party to investors of the other Contracting Party demonstrating that their investments have been approved by the host Contracting Party in accordance with its national laws and regulations. The certificate of acceptance may determine the conditions under which the investment shall be admitted.

4 The competent authorities below in each Contracting Party shall issue a certificate of acceptance, certificate of approval:

a In the Islamic Republic of Iran:

itemized The Ministry of Economic Affairs and Finance

itemized The Organization for Investment, Economic and Technical Assistance

itemized Iran, Tehran, 15 Khordad Roundabout.

a In Turkmenistan:

itemized Ministry of Foreign Economic Relations

itemized Turkmenistan, Ashgabat, Kamineh Street, number 92.

5 The term "admitted investment" refers to investments that have been issued a certificate of acceptance or a certificate of State registration.

6 The term "returns" means investment funds that are obtained legally in particular but not exclusively, profits from investments, interests from financing, capital gains, dividends, fees and royalties.

7 The term "territory" refers to the areas under the sovereignty or jurisdiction of either Contracting Party, as the case may be, and includes their maritime areas.

Article 2. Promotion of Investment

1 Each Contracting Party shall encourage its investors to invest in the territory of the other Contracting Party.

2 Each Contracting Party shall promote and create favorable conditions for investors of the other Contracting Party in its territory, in accordance with its laws and regulations.

Article 3. Admission of Investment

1 Each Contracting Party shall admit investments of investors of the other Contracting Party in its territory, in accordance with its national laws and regulations and shall issue a certificate of acceptance or a certificate of State registration.

2 When an investment is admitted, either Contracting Party shall, in accordance with its national laws and regulations, grant the necessary permits for the realization of such an investment.

Article 4. Protection of Investment

1 Investments of investors of either Contracting Party effected within the territory of the other Contracting Party shall receive the host Contracting Party's full legal protection and fair treatment not less favourable than accorded to investors of any third State in like circumstances.

2 If a Contracting Party has accorded or shall accord in future special advantages to investors of any third State by virtue of an existing or future agreement establishing a free trade area, a customs union, a common market or a similar regional organization and/or by virtue of an agreement on the avoidance of double taxation, it shall not be obliged to accord such advantages or rights to investors of the other Contracting Party.

Article 5. More Favorable Provisions

Notwithstanding the terms set forth in this Agreement, more favorable provisions which have been agreed or may be agreed upon by either Contracting Parties with an investor of the other Contracting Party are applicable.

Article 6. Expropriation and Compensation

1 Investments of natural and legal persons of either Contracting Party shall not be nationalized, confiscated, expropriated or subjected to similar measures by the other Contracting Party, except such measures are taken for public purposes, in accordance with due process of law, in a non-discriminatory manner, and upon payment of prompt, effective and fair compensation.

2 The amount of compensation shall be equivalent to the value of investment immediately before the action of nationalization, confiscation or expropriation was taken.

Article 7. Losses

Investors of either Contracting Party whose investments suffer losses due to any armed conflict, war or similar state of emergency in the territory of the other Contracting Party shall be accorded by the other Contracting Party treatment no less favorable than that accorded to its own investors or to investors of any third State whichever is more favourable.

Article 8. Repatriation and Transfer

1 Each Contracting Party shall permit in good faith the following transfers related to investments referred to in this Agreement, to be made freely and without delay in and out of its territory:

- a Returns;
- b Proceeds from the sale and/or liquidation of all or part of an investment;
- c Sums paid pursuant to Article 6 and 7 of this Agreement;
- d Loan installments which are related to an investment and paid out of such investment activities;
- e Monthly salaries and wages received by employees of an investor of one Contracting Party who have obtained in the territory of the host Contracting Party, the corresponding work permits related to that investment;
- f Payments arising from a decision of the authority referred to in Article 11.

2 Transfers shall promptly be effected in a convertible currency, without delay and at the applicable rate of exchange on the date of transfer in the territory of the Contracting Party where the investment is made.

Article 9. Subrogation

1 If a Contracting Party or its designated agency, within the framework of a legal system, subrogates an investor pursuant to a payment made under an insurance or guarantee agreement against non-commercial risks. Such subrogation shall be recognized by the other Contracting Party.

2 The subrogate shall not be entitled to exercise any rights other than the rights which the investor would have been entitled to exercise.

3 Disputes between the subrogee and the host Contracting Party shall be settled in accordance with Article 11 of this Agreement.

Article 10. Observance of Commitments

Either Contracting Party shall guarantee the observance of the commitments it has entered into with respect to investments of natural and legal persons of the other Contracting Party.

Article 11. Settlement of Disputes between a Contracting Party and an Investor of the other Contracting Party

1 Any dispute between the host Contracting Party and an investor or investors of the other Contracting Party shall as far as possible be settled in an amicable manner through negotiation and consultation.

2 In the event that the dispute with regard to an investment between the investor or investors of a Contracting Party and the other Contracting Party cannot be settled within six months from the date of the written application for settlement, each of them may submit the dispute for settlement to:

- a The competent courts or arbitration of the host Contracting Party;
- b An ad hoc Arbitration Tribunal that is established in accordance with Rules of Arbitration of the United Nations Commission on International Trade Law (UNCITRAL);
- c The International Centre for Settlement of Investment Disputes (ICSID), for the implementation of the arbitration procedure under the Washington Convention of 18 March, 1965, On the Settlement of Investment Disputes between States and Nationals of the other States, if both Contracting Parties have acceded to it.

3 During the arbitration or the enforcement or the Tribunal's the disputing Contracting Party shall not appeal that the investor of the other Contracting Party has received compensation partly or completely based on insurance.

4 The decision of the Tribunal shall be final and binding upon both parties to the dispute.

Article 12. Settlement of Disputes between the Contracting Parties

1 All disputes arising between the Contracting Parties relating to the interpretation and application of this Agreement shall, in the first place, be settled amicably through consultations and negotiations.

2 In case of disagreement cannot be settled within twelve months from the date of the start of the dispute, either Contracting Party may, subject to its laws and regulations, while sending a notice to the other Contracting Party, refer the case to an Arbitral Tribunal of three members consisting of two arbitrators appointed by the Contracting Parties. The arbitrators appointed by the Contracting Parties shall appoint a Chairman who must be a national of a third State having diplomatic relations with both Contracting Parties at the time of the appointment.

3 Each of the two Contracting Parties shall appoint an arbitrator within thirty days from the date on which the request for arbitration is received. If the other Contracting Party is unable to appoint an arbitrator within the specified period, the President of the International Court of Justice shall be invited to make the necessary appointment.

4 If the arbitrators appointed by the Contracting Parties are unable to appoint a Chairman within sixty days from the date of the appointment of the second arbitrator either party, may invite the President of the International Court of Justice to make the necessary appointments.

5 If in the events referred to in paragraph 3 and 4 of this Article, the President of the International Court of Justice is prevented from carrying out the said function or if he is a national of either Contracting Party, the appointment shall be made by the Vice-President of the International Court of Justice, and if the Vice-President is also prevented from carrying out the said function or he is a national of either Contracting Party, the appointment shall be made by the senior member of the said court who is not a national of either Contracting Party.

6 Taking all other conditions that Contracting Parties have agreed to, the Tribunal shall lay down its own procedures and determine the place of arbitration.

7 The decision of the Arbitration Tribunal shall be final and binding on both Contracting Parties.

8 Both Contracting Parties shall pay the costs of their own arbitration and of their representative at the hearings. The costs of the Chairman and any other costs shall be divided equally between the Contracting Parties.

Article 13. Application of other Rules

If the provisions of law of either Contracting Party or obligations under international agreements, whether existing or in future, in addition to this Agreement contain a regulation shall be established between the Contracting Parties, whether general or specific, entitling investments made by investor of the other Contracting Party to a treatment more favourable than is provided by this Agreement, such provisions shall, to the extent they are more favourable to the investor, prevail over this Agreement.

Article 14. Consultation

Contracting Parties agree that each Contracting Party may propose to the other Contracting Party consultations on any matter relating to this Agreement.

Article 15. Entry Into Force

This Agreement shall be ratified and shall enter into force from the date of receipt of the last of the two notifications by which the Contracting Parties shall communicate officially to each other that their respective ratification procedures have been completed.

Article 16. Term and Termination

1 This Agreement is valid for a period of five years and shall remain in force thereafter unless it will be terminated pursuant to paragraph 2 of this Article.

2 Each of the Contracting Parties may notify the other Contracting Party in writing of its intention to terminate this Agreement one year before the end of the first period of five years or any time after that.

3 After the expiration of the validity or termination of this Agreement its provisions shall apply to investments under this Agreement for a further period of five years.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

This Agreement is done in duplicate at Tehran on January 23, 1996 corresponding to 3rd Bahman 1374 in Persian, Turkmen and English languages and all texts are equally authentic. In case of divergence of interpretation, the English text shall prevail.

Signature of the Government of the Islamic Republic of Iran

Signature of the Government of Turkmenistan