

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF TAJIKISTAN AND THE GOVERNMENT OF THE REPUBLIC OF ARMENIA ON THE PROMOTION AND MUTUAL PROTECTION OF INVESTMENTS

The Government of Tajikistan and the Government of the Republic of Armenia, hereinafter referred to as "the Contracting Parties",

Aware that the promotion and reciprocal protection of investments will contribute to the development of mutually beneficial trade-economic and scientific-technical cooperation between the two Contracting Parties, and multiply prosperity of both States;

Desiring to create favorable conditions for investors of one Contracting Party in the territory of the other Contracting Party;

Ensuring equal protection of the rights, interests and property of subjects of investment activity of the Contracting Parties;

Based on the principles of equality, mutual respect for sovereignty and mutual benefit,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement the following terms mean:

1. The term "investor" means in respect of each of the Contracting Parties:

a) any natural person who is a national of a Contracting Party or permanently resident in the territory of the Contracting Parties and shall be entitled, in accordance with its legislation to invest in the territory of the other Contracting Party;

b) any legal person or other entity created or organized under the laws of one Contracting Party, having located on the territory of one of the Contracting Parties and recognized by the latter law.

2. The term "investments" covers all types of property and intellectual values that for the purpose of economic activity are invested or reinvested by the investor of one Contracting Party in the territory of the other Contracting Party in accordance with the conditions stipulated by the legislation of each Contracting Party, in particular, but not exclusively,:

a) money, special bank deposits, shares, stock, bonds and other securities;

b) movable and immovable property (buildings, structures, equipment and other tangible assets) and related property rights, including the right to pledge, rent and hold the mortgage;

c) claims to money and claims to any activity having an economic value, treaty obligations;

d) the rights to intellectual property (copyright, rights in inventions, patents, industrial designs and patterns, trademarks, trade names, birth signs, technology "know-how" and others);

e) concessions conferred by law or contract, including in particular the right to exploration, development and exploitation of natural resources.

Within this Agreement, a legal change in the form in which assets are invested or reinvested shall not affect their character as an investment.

3. The term "returns" means the amounts resulting from investments as profits, and includes, in particular, but not exclusively: profits, dividends, interest payments, royalties, capital gains, royalties, license and commission fees.

4. The term "territory" means:

a) in respect of the Republic of Tajikistan - the territory of the Republic of Tajikistan;

b) in respect of the Republic of Armenia - the territory of the Republic of Armenia.

Article 2. Promotion and Protection of Investments

1. Each Contracting Party shall encourage investors of the other Contracting Party to make investments in its territory and admit such investments in accordance with its legislation.

2. Investment, as defined in paragraph 2 of Article 1, and revenues associated with them will be fully protected in accordance with this Agreement. The same applies without prejudice to the provisions of paragraph 1 of this Article and to all income derived in the case of reinvestment of such proceeds. Implementation of the law extension, alteration or transformation of an investment will be treated as new investments.

Article 3. National Investment Regime

1. Each of the Contracting Parties undertakes to ensure, on its territory, a fair and equal treatment with respect to investor investments and activities in connection with the investments of the other Contracting Party, which excludes the application of discriminatory measures that could impede the management and disposal of investments.

2. The regime referred to in paragraph 1 of this article will be no less favorable than the regime that is provided by own investors or investors of any third state and activities related to such investments

3. The provisions of this Article shall not apply to the benefits and advantages which the Contracting Party is providing or will provide in the future the investors of any other third State or their investments on the basis of:

a) participation in a free trade area, customs or economic union, the organization of mutual economic assistance or an international agreement providing for privileges and advantages similar to those provided by the Contracting Party to participants of these organizations;

b) on the basis of agreements to avoid double taxation or other agreements on taxation.

Article 4. Expropriation of Investments and Compensation for Losses

1. Investments of investors of either Contracting Party made in the territory of another Contracting Party shall not be expropriated, nationalized or subjected to measures equal for expropriation (hereinafter referred to as - expropriation), except in cases where such measures are taken in the public and the public interest and carried out in accordance with legislation, and are accompanied by the payment of preliminary and equivalent compensation.

2. The compensation shall correspond to the real market value of the expropriated investment immediately before the date when the official was aware of the actual implementation or impending expropriation. Compensation will be paid without undue delay, in a freely convertible currency and freely transferable from the territory of one Contracting Party in the territory of the other Contracting Party. Until the full payment of the amount of compensation will bear interest according to the interest and the rate of the Contracting Party in whose territory the investments are made.

3. Investors of one Contracting Party whose investments suffer losses in the territory of the other Contracting Party owing to war or other armed conflict, a state of emergency, civil unrest, coup, insurrection or other similar events in the territory of the latter Contracting Party shall be granted treatment no less favorable than that which the latter Contracting Party accords to its own investors or investors of any third state, except in cases of natural disasters, fires, accidents, epidemics, and other cases of extraordinary nature.

Article 5. Transfer of Payments Related to Investments

1. Each Contracting Party shall guarantee investors of the other Contracting Party, after fulfillment of all tax and other mandatory payments free transfer abroad of payments related to investments and in particular, but not exclusively:

a) the amount of the original investment and additional amounts to maintain and increase investments;

b) profits derived from the investment;

c) the amounts required to make payments, provided contracts, including payments related to royalties, patents, franchising and payments in repayment of loans and associated with other identical rights;

- d) the sums received by the investor in connection with the partial or total liquidation or sale of investments, including gains on investment;
- e) the compensation provided for in Article 4 of this Agreement;
- f) wages and other remuneration received by nationals of the other Contracting Party who performs work in the territory of the other Contracting Party relating to the investment;
- g) amounts paid as a result of the settlement of disputes.

2. Transfers of payments will be made without undue delay, in a freely convertible currency at the exchange rate applicable on the date of transfer, subject to the rules of currency legislation of the Contracting Parties.

The exchange "without undue delay" shall be deemed an exchange produced during the time required for the optimal performance of the formal activities related to translation.

Article 6. Subrogation

1. A Contracting Party or its authorized body, which will make payments to any of the investors under the guarantee or insurance concluded in connection with investments in the territory of the other Contracting Party, will be able to exercise, by subrogation, the rights of the investor in the amount inherent to investors.
2. 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 7. Settlement of Investment Disputes between a Contracting Party and an Investor of Another Contracting Party

1. Any dispute between one of the Contracting Parties and the investor of the other Contracting Party arising in connection with the investment will be the subject of a written notice, accompanied by detailed comments from the initiating party.
2. If by conciliation or negotiation and consultation it is not possible to settle the dispute within three months from the date of the written notification, at the investor's discretion it shall be referred to a competent court or arbitration of the Contracting Party in whose territory the investment was made or to an international arbitration (arbitration) tribunal.

In the latter case, the Contracting Parties expressly agree in advance to submit the dispute referred to in the first paragraph of this paragraph to international arbitration in accordance with this article. Such agreement implies that each Contracting Party refuses to demand that all domestic administrative or legal means of dispute settlement be exhausted.
3. For consideration of a dispute in an international arbitration court, it is referred to the ad hoc arbitration court in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).
4. The Contracting Parties taking part in the dispute undertake not to dispute at any stage of the arbitration process or the enforcement of the arbitral award that an investor of the other Contracting Party has received full or partial compensation under any insurance policy or other guarantee provided for in Article 6 of this Agreement.
5. The arbitral tribunal shall decide, guided by the law of the Contracting Party accepting the investment, including the rules of conflict of laws, and paragraphs of this Agreement, special agreements in force in connection with the investment, and the principles of international law.
6. The arbitral award shall be final and binding on both parties to the dispute. Each Contracting Party shall cause such decision to be executed in accordance with its legislation.

Article 8. Settlement of Disputes between the Contracting Parties Concerning the Interpretation or Application of this Agreement

1. The Contracting Parties shall seek in good faith and in a spirit of cooperation to achieve a speedy and fair solution to any issue of mutual investments.
2. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall be settled through diplomatic channels.

3. If so the dispute will not be settled within three months from the date of notification of the dispute, at the request of either Contracting Party, it shall be referred to arbitration (arbitration) court to be established pursuant to this Article.

4. Such an arbitral tribunal shall be established for each individual case as follows. Each Contracting Party shall appoint one arbitrator within forty days from the date of receipt of notification of the arbitration. Then, these two arbitrators shall elect a national of a third State having diplomatic relations with both Contracting Parties who, with the consent of both Contracting Parties shall be appointed Chairman of the tribunal within forty days from the date of appointment of the last of the two arbitrators.

5. Unless the necessary appointments are made within the time limits referred to in paragraph 4 of this Article, either Contracting Party may, unless otherwise agreed, request the President of the International Court of Justice to the United Nations to make the necessary appointments. If the President of the International Court of Justice is a national of one of the Contracting Parties or is a national of a State with which one of the Contracting Parties has no diplomatic relations or is otherwise unable to perform the said function, the Vice-President of the International Court of Justice shall be invited to make the necessary appointments. If a Vice-President of the International Court of Justice is also a national of one of the Contracting Parties or is otherwise unable to perform the said function, the following senior member of the International Court of Justice who is not a national of one of the Contracting Parties shall be invited to make the necessary appointments

6. The arbitral tribunal shall determine its own procedure. The tribunal shall render its decision by majority vote. This decision will be final and binding on both Contracting Parties. The Court decides in accordance with the provisions of this Agreement and the generally recognized principles of international law. Each Contracting Party shall bear the expenses related to the activities of the arbitrator appointed by it and its representation in the arbitration proceedings, the costs associated with the chairman of the court activity, and other expenses will be borne by the Contracting Parties in equal shares. However, the Court may in its decision that one of the Contracting Parties shall bear a larger share of spending, and that decision will be binding on both Contracting Parties.

Article 9. Application of other Rules and Special Commitments

1. If the position of the law of either Contracting Party or obligations under international law existing at present or established in the future between the Contracting Parties in addition to this Agreement contains rules, whether general or specific, entitling investments and investors the other Contracting Party to treatment more favorable than is provided for by this Agreement, such rules will prevail over this Agreement to the extent that they are more favorable.

2. Investments made in accordance with specific agreements signed between one Contracting Party and the investor (s) of the other Contracting Party shall be governed by the provisions of this Agreement and of the special agreement.

Article 10. Consultations

1. Representatives of the two Contracting Parties will meet as necessary in order to:

- a) examine the issues of application of this Agreement;
- b) exchange of information on legal issues of investment and the possibility of their implementation;
- c) The settlement of disputes arising in connection with investments;
- d) study of other issues related to the investments;
- e) consideration of proposals for possible changes and additions to the present Agreement.

2. If any of the Contracting Parties propose to hold consultations on any of the matters referred to in paragraph 1 of this Article, the other Contracting Party shall immediately give the answer, and consultations shall be held alternately in Dushanbe and Yerevan.

Article 11. Application of the Agreement

1. This Agreement shall apply to any and all investments made by investors of either Contracting Party in the territory of the other Contracting Party, in accordance with its laws and investment regulations, both before and after the entry into force of this Agreement.

2. This Agreement shall have no effect in relation to those investment disputes which have arisen or have been settled before the entry into force of this Agreement.

Article 12. Amendments and Additions

This Agreement may be amended or added by mutual written consent of the Contracting Parties. Changes and additions are made in the form of separate protocols, are an integral part of this Agreement, and shall enter into force in accordance with the rules and procedures provided for in Article 13 of this Agreement.

Article 13. Entry Into Force, Duration and Termination of the Agreement

1. Each Contracting Party shall notify the other Contracting Party of the fulfillment of domestic procedures necessary for the entry into force of this Agreement. This Agreement shall enter into force from the date of receipt of the last of the two notifications.
2. This Agreement shall remain in force for ten years. If six months before the expiry of that period neither Contracting Party notifies the other Contracting Party of its intention to terminate this Agreement, it will be extended each time for ten years.
3. In respect of investments made prior to the date of termination of this Agreement and covered by its action, the provisions of all the articles of this Agreement shall remain in force for the next ten years, counted from the date of termination of this Agreement.

Done at the city of Dushanbe, April 2, 2002, in two original copies, each in the Tajik, Armenian and Russian languages. In case of different interpretation of the provisions of this Agreement as a basis for the text in Russian will be accepted.

For the Government of the Republic of Tajikistan

For the Government of the Republic of Armenia