Agreement between the Government of the People's Republic of Bangladesh and the Government of the Republic of Belarus for the Promotion and Reciprocal Protection of Investments

The Government of the People's Republic of Bangladesh and the Government of the Republic of Belarus (hereinafter referred to as "the Contracting Parties"),

Desiring to expand and strengthen economic cooperation for the mutual benefit of both countries,

Aspiring to create favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party,

Recognizing that promotion and reciprocal protection of investments under this Agreement shall stimulate development of business initiative in both countries,

Have agreed as follows:

Article 1. Definitions

In the present Agreement the following terms shall mean:

1. Investments - every kind of assets invested by investors of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the latter and include, in particular, though not exclusively:

a) movable and immovable property and any other property rights such as mortgages, liens, pledges and similar rights;

b) shares, stocks, debentures and any other forms of participation in companies;

c) claims to money or to any performance under contract having economic value;

d) intellectual and industrial property rights (such as copyrights, patents, utility models, industrial designs, trade or service marks, trade names, geographical indications), know-how. and goodwill and other similar rights recognised in accordance with the laws and regulations of both Contracting Parties;

e) concessions conferred by the laws and regulations of the Contracting Party in which territory investments are made, including concessions to search for, cultivate, extract or exploit natural resources,

Any change of the form in which assets are invested or reinvested shall not affect their character as investments, provided that such a change does not contradict the laws and regulations of the relevant Contracting Party.

2. Retums - the amounts yielded by an investment and, in particular, though not exclusively, include profit, dividends, interests, capital gains, royalties and other incomes of the investments.

3. Investors mean with regard to either Contracting Party:

a) Natural persons which in accordance with the laws and regulations of a Contracting Party are its nationals and which make investments in the territory of the other Contracting Party;

b) Legal persons, including companies, partnerships, business associations and other unions or organisations, which are constituted or organised under the laws and regulations of a Contracting Party, having their registered office in the territory of that Contracting Party and which make investments in the territory of the other Contracting Party.

4. Territory with regard to either Contracting Party - the territory of the relevant state including land, internal waters and territorial sea, the seabed and subsoil, airspace over which the state of the Contracting Party has sovereign rights or jurisdiction in accordance with international law.

5. Laws and regulations with regard to either Contracting Party - the laws and regulations of the state of the Contracting Party concerned.

Article 2. Investments Made Prior to the Entry Into Force of the Present Agreement

This Agreement shall apply to all investments, made by investors of one of the Contracting Parties in the territory of the other Contracting Party in accordance with the respective laws and regulations, prior to as well as after the entry into force of this Agreement, but shall not apply to any dispute concerning investments that may have arisen before entry into force of the present Agreement.

Article 3. Promotion and Protection of Investments

1. Each Contracting Party shall encourage and create in its territory favourable conditions for investors of the other Contracting Party to make investments, and shall admit such investments in accordance with its laws and regulations.

2. Investments of investors of each Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy adequate protection in the territory of the other Contracting Party under this Agreement. Each Contracting Party shall: in no way impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment, or disposal of investments in its territory by investors of the other Contracting Party; observe any obligation it may have entered into with regard to investments of investors of the other Contracting Party.

Article 4. National and Most Favoured Nation Treatment

1. Each Contracting Party shall accord in its territory:

a) to investments and returns of investors of the other Contracting Party such a treatment that shall not be less favourable than that which it accords to investments and returns of investors of its own country or to investments and returns of investors of any third country;

b) to investors of the other Contracting Party, as regards management, maintenance, use, enjoyment or disposal of their investments such a treatment that shall not be less favourable than that which it accords to investors of its own country or to investors of any third country.

2. The provisions 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, preferences or privileges resulting from any:

a) existing or future free trade area, customs union, common market, economic and monetary union or other similar international agreement, including other forms of regional economic cooperation, to which either Contracting Party is or may become a party, or

b) international agreement(s) relating wholly or mainly to taxation.

Article 5. Protection of Environment and Public Health

1. A Contracting Party shall not waive or otherwise derogate from its national public health and/or environmental policies as an encouragement or otherwise, to the establishment, acquisition, expansion, operation, management, maintenance, use, enjoyment, and sale or other disposal of an investment of an investor of the other Contracting Party.

2. Investment objectives should be achieved without relaxing health, safety and environmental measures of general application. If the Contracting Party in whose territory the investment is made, suffers from a loss, destruction of damages with regard to its public health or life or the environment, including natural resources by the investor of the other Contracting Party, then the first Contracting Party shall be accorded adequate and effective compensation as per its laws and regulations, and if necessary as per international law, by the investor(s) of the other Contracting Party.

Article 6. Expropriation

1. Investments of investors of either Contracting Party in the territory of the other Contracting Party shall not be requisitioned, expropriated, nationalized or subjected to measures having an effect equivalent to expropriation (hereinafter referred to as expropriation) except for a public purpose, under due process of law, on a nondiscriminatory basis and against prompt, adequate and effective compensation.

Such compensation shall amount to the market value of the expropriated investments immediately before the expropriation or before the impending expropriation became public knowledge, whichever is the earlier. The market value. shall be determined in accordance with adopted international practice and shali include interest calculated on the LIBOR basis from the date of expropriation until the date of payment with regard to the currency in which the investments have been made. The compensation shall be made without delay in the currency in which investments have been made, shall be effectively realizable and freely transferable.

2. The investors which suffered losses shall have the 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 the case and of the valuation of the investment in accordance with the principles set out in this Article.

Article 7. Compensation for Losses

Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to a war or other armed conflict, revolution, state of national emergency, revolt, insurrection or riot in the territory of the latter Contracting Party shall be accorded by the latter Contracting Parfy treatment, as regards restitution, indemnification, compensation or other settlement, no less favourable than that which the latter Contracting Party accords to investors of its own country or to investors of any other third state country. Resulting payments shall be freely transferable.

Article 8. Transfer of Capital and Returns

1. Each Contracting Party shall guarantee to investors of the other Contracting Party, after they have paid all the appropriate taxes and charges, the free transfer of payments relating to their investments, in particular, though not exclusively:

a) returns - as defined in paragraph 2, Article 1 of the present Agreement;

b) repayments of loans recognized by both Contracting Parties as imvestments;

c) amounts assigned to cover expenses relating to the management of the investments; ,

d) capital and additional amounts necessary for the maintenance or development of the investments;

e) proceeds from the sale or partial or total liquidation of the investments, including possible increment values;

f) compensation under Articles 6 and 7 of this Agreement.

2. The transfer of payments as provided for in this Article shall be made without undue delay in a freely convertible currency pursuant to the exchange regulations in force of the Contracting Party in which territory the investments have been made unless otherwise agreed upon between the investor and the Contracting Party concerned.

3. Currency exchange for making payments enumerated in this Article shall be made at the market rate of exchange applicable on the date of remittance in accordance with the currency exchange regulations in force of the Contracting Party concerned.

Article 9. Subrogation

1. If a Contracting Party or its designated agency (hereinafter referred to as the "insurer") makes a payment to its own investors under an insurance contract or guarantee against non-commercial risks in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognise:

a) the assignment to the insurer, whether by law or by legal transaction, of all rights or claims ensuing from such an investment, and

b) that the insurer is entitied by virtue of subrogation to exercise these rights and to enforce such claims and assume the obligations related to the investment.

2. The subrogated rights or claims shall not exceed the original rights or claims of the investor.

3. Any dispute between one Contracting Party and the insurer shall be settled in accordance with the provisions of Article 11 of this Agreement.

Article 10. Settlement of Disputes between the Contracting Parties

1.Disputes between the Contracting Parties regarding the interpretation or application of the provisions. of this Agreement shall, as far as possible, be settled by negotiations through diplomatic channels.

2. If the Contracting Parties cannot settle any dispute as defined above within six months after the beginning of negotiations, the dispute shall, upon the request of either Contracting Party, be submitted to an arbitral tribunal, in accordance with the provisions of this Article.

3. The arbitration tribunal shall be constituted ad hoc as follows. Each Contracting Party shall appoint one arbitrator and these two arbitrators shall agree upon a Chairman to be appointed by the two Contracting Parties. The Chairman of the arbitral tribunal shall be a national of a third state with which the states of both Contracting Parties have diplomatic relations. The arbitrators shall be appointed within two months and the Chairman within three months from the date on which either Contracting Party has informed the other of its intention to submit the dispute to an arbitral tribunal.

4. If within the mentioned period specified in paragraph 3 of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of either Contracting Party or if he is otherwise prevented from discharging the said function, the Vice-President shall be invited to make the necessary appointments.

5. If the Vice-President is a national of either Contracting Party or if he is also prevented from discharging the said function, the Member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointments.

6. The arbitral tribunal established under this Article shall reach its decision by a majority of votes. Such decisions shall be final and binding on both Contracting Parties. Each Contracting Party shall bear the cost of its own member of the tribunal and of its representation in the arbitral proceedings. The cost of the Chairman and any other costs related to dispute settlement shall be born in equal parts by the Contracting Parties. The tribunal may, however, take a different decision regarding the costs. In all other respects the tribunal shall determine its own procedure.

7, The Contracting Party, which is a party to the dispute, shall, at no time whatsoever during the procedures involving investments disputes, assert its sovereign immunity as a defence.

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

1. Any dispute which may arise between an investor of a Contracting Party and the other Contracting Party concerning the investments of this investor, shall be subject to consultations between the parties to the dispute for the purpose of solving the case amicably.

If these consultations do not result in a solution within six months from the date of the request for settlement, the investor may submit the dispute, at his choice, for settlement to:

a) the competent court of the Contracting Party in the territory of which the investments have been made;

b) the International Centre for the Settlement of Investment Disputes (ICSID) established by the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature at Washington D.C. on March 18th,1965;

c) an ad hoc arbitral tribunal which, unless otherwise agreed upon by the parties to the dispute, shall be established under the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL).

2. The decisions of the arbitral tribunal shall be final and binding on both parties to the dispute.

3. During the arbitration proceedings or the enforcement of the award, the Contracting Party involved in the dispute shall not assert, as a defense, its sovereignty or the fact thatthe investor of the other Contracting Party has received compensation under an insurance contract in respect of all or a part of the losses.

4. Neither Contracting Party shall pursue to settle through diplomatic channels a dispute submitted to international arbitration unless the other Contracting Party does not abide by or comply with the award reached by an arbitral tribunal.

Article 12. Application of other Laws and Rules

If the provisions of law of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to the present Agreement contain rules, whether general or specific,

entitling investments by investors of the other Contracting Party to a treatment more favourable than is provided for by the present Agreement, such rules shall to the extent that they are more favourable prevail over the present Agreement.

Article 13. Consultations

The representatives of the Contracting Parties shall, whenever necessary, hold consultations on any. matter affecting the implementation of this Agreement. These consultations shall be held on the proposal of one of the Contracting Parties at a place and time to be agreed upon through diplomatic channels.

Article 14. Entry Into Force, Duration and Termination

1. This Agreement shall enter into force thirty days after the Contracting Parties notify each other in writing that their respective internal requirements, necessary for entry into force of this Agreement, have been fulfilled.

2. This Agreement shall remain in force for an initial period of ten years. After the expiration of the initial period of ten years, it shall continue in force indefinitely unless either Contracting Party notifies the other Contracting Party in writing of its decision to terminate this Agreement. The notice of termination shall become effective one year after the date of that notification.

In respect of investments made prior to the date of termination of this Agreement the provisions of all of the Articles, related to such investments, shall remain in force for a further period of ten years from the date of termination of this Agreement.

In witness whereof, the representatives, duly authorised thereto by their Governments, have signed the present Agreement.

Done at Dhaka, on November 12, 2012, in two originals, in the English and Russian languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail,

For the Government of the People's Republic of Bangladesh

For the Government of the Republic of Belarus