

AGREEMENT
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF MACEDONIA
AND
THE GOVERNMENT OF THE REPUBLIC OF BELARUS
FOR
THE PROMOTION AND
RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the Republic of Macedonia and the Government of the Republic of Belarus, hereinafter referred to as the Contracting Parties,

DESIRING to intensify economic cooperation to the mutual benefit of both States, '

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

RECOGNIZING the need to promote and protect foreign investments with the aim to foster the economic prosperity of both countries,

HAVE AGREED as follows:

Article 1. Definitions

For the purpose of this Agreement the following terms shall mean:

1. "Investment" means any kind of asset invested by an investor of one Contracting Party in the territory of the other Contracting Party', provided that they have been made in accordance with the laws and regulations of the other Contracting Party and shall include:

- a) movable and immovable property, guarantees and property rights, such as servitude, mortgages and other rights under the law;
- b) shares in, stocks or any other kind of participation in companies;
- c) claims to money or to any performance pursuant to contracts having an economic value;
- d) copyrights, trade marks, patents, know-how and goodwill or other intellectual or industrial property rights;
- e) any rights of a financial nature granted by law or agreement, such as concessions, including concessions to search for, process, extract and exploit natural resources.

2. "Investor" means any natural or legal person of the State of one Contracting Party that invests in the territory of the other Contracting Party.

a) "Natural person" means any natural person who is a national of the [Republic of Macedonia or the Republic of Belarus.

b) "Legal person" means:

Any legal person established in accordance with, and recognized as such by the laws and regulations of either Contracting Party and having its seat in the territory of that Contracting Party.

3. "Return" means money yielded by an investment and in particular, profits, interests, dividends, royalties, any fees, commissions and capital gains:

4. "Territory" means the territory of the Republic of Macedonia and the territory of the Republic of Belarus, including land, water and airspace, over which the State concerned exercises, in accordance with international law, sovereign rights and jurisdiction.

5. "Laws and regulations" means laws and regulations of the Republic of (Macedonia and of the Republic of Belarus accordingly.

6. Any change in the form of an investment, does not affect its character as an investment.

Article 2. Promotion and Admission of Investments

1. Each Contracting Party shall promote, in its territory, investments by investors of the other Contracting Party and admit such investments in accordance with its laws and regulations.

2. When a Contracting Party shall have admitted an investment in its territory, it shall grant in accordance with its laws and regulations the necessary permissions in connection with such an investment and with the carrying out of licensing agreements and contracts for technical, commercial or administrative assistance. Each Contracting Party shall, whenever needed, endeavor to issue the necessary authorizations concerning the activities of consultants and other qualified persons of foreign nationality.

Article 3. Protection and Treatment of Investments

1. Each Contracting Party shall protect within its territory', investments made in accordance with its laws and regulations by investors of the other Contracting Party and shall not impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment, extension, sale and should it so happen, liquidation of such investments.

2. Each Contracting Party shall ensure fair and equitable treatment, within its (territory', of the investments of the investors of the other Contracting Party. This treatment shall not be less favorable than that granted by each Contracting Party to investments made by its own investors or by investors of a third State.

3. The treatment of items 1 and 2 of this Article shall not apply to privileges which either Contracting Party' accords to investors of a third State because of its existing or future participation in, a free trade area, customs union, common market or convention on the avoidance of double taxation or a convention on other fiscal matters.

Article 4. Expropriation and Compensation

1. Neither of the Contracting Parties shall take, measures of expropriation, nationalization or any other measure having the same effect against investments of investors of the other Contracting Party (hereinafter "expropriation"), except the measures taken in the public interest, on a non discriminatory basis and under due process of law and provided that effective and adequate compensation shall be paid.

Such compensation shall amount to the market value of the expropriated investment immediately before the expropriation or the impending expropriation become public knowledge, which shall be determined in accordance with the international standards. The compensation shall include interest calculated on the annual LIBOR basis from the date of expropriation to the date of payment.

2. The compensation shall be paid without undue delay in freely convertible currency and be freely transferable to the investor entitled thereto.

A compensation shall be deemed to be made "without undue delay" if effected within the period not exceeding three

months from the day on which the relevant request has been submitted.

3. Investors of either Contracting Party who suffer losses of their investments in the territory of the other Contracting Party due to war or other armed conflict, a state of national emergency, revolt, insurrection or riot shall be accorded, with respect to restitution, indemnification, compensation or other settlement, a treatment which is no less favorable than that accorded to its own investors or to investors of any third State..

Resulting payments shall, whenever possible, be transferable without delay, in freely convertible currency.

Article 5. Subrogation

If a Contracting Party or its designated agency makes a payment under an indemnity agreement, guarantee or contract of insurance, given in respect of an investment of an investor in the territory of the other Contracting Party, the latter Contracting Party shall recognise the assignment of any right or claim of such (investor to the former Contracting Party or its designated agency and the right of (the former Contracting Party or its designated agency to exercise by virtue of (subrogation any such right and claim to the same extent as its predecessor in title.

Article 6. Transfer

1. Each Contracting Party 7, in the territory of which investments have been made by investors of the other Contracting Party, shall grant those investors, after they have fulfilled all their fiscal obligations, a free transfer of payments relating to these investments, particularly of:

- a) the capital and additional sums necessary for the maintenance and development of the investment;
- b) returns as defined in paragraph 3 of Article 1 of this Agreement;
- c) funds in repayment of loans and credits
- d) the proceeds from a total or partial sale or liquidation of an investment;
- e) compensations provided for in Articles 4 and 5
- f) the earnings of nationals of one Contracting Party who are allowed to work (in connection with an investment in the territory of the other Contracting Party.

2. Transfers of payments mentioned in this Article shall be made without delay in a freely convertible currency pursuant to the exchange regulations in force of the Contracting Party in which territory investments have been made. Currency exchange for making payments shall be made at the market rate of exchange applicable on the date of exchange pursuant to the exchange regulations in force of the Contracting Party from which territory the transfer shall be made.

3. The Contracting Parties undertake to accord to transfers referred to in paragraphs 1 and 2 of this Article treatment no less favorable than that accorded to transfers originating from investments made by investors of any third State.

Article 7.

"Settlement of Disputes between one Contracting Party and an Investor of the Other Contracting Party

1. Any dispute between a Contracting Party and an investor of the other Contracting Party, with regard to investment of this investor, should be settled amicably by means of negotiation.

2. If the dispute cannot be settled amicably within six months from the date of (the written notification by which the other Contracting Party has been advised about the subject of the dispute, the investor concerned may suggest, at his own choice, that the dispute to be settled through:

- A competent court of the Contracting Party in the territory of which the investment has been made;
- An "ad hoc" arbitral tribunal established under the Arbitration Rules of Procedure of the United Nations Commission for International Trade Law (UNCITRAL).
- The International Center for Settlement of Investment Disputes (ICSID), established under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, opened for signature at Washington DC on 18 March 1965;

3. Once the dispute has been submitted to the competent court of the Contracting Party or to international arbitration, the choice of one or the other procedure will be definitive.

4. The arbitration award shall be based on:

- The provisions of this Agreement;

- The national law of the Contracting Party in whose territory the investment was made, including the rules relative to conflicts of law;

- The rules and the universally accepted principles of international law.

5. The arbitration decisions shall be final and binding for the parties to the dispute. Each Contracting Party undertakes to execute such decisions in accordance with its national law.

Article 8.

"Settlement of Disputes between Contracting Parties

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

2. If both Contracting Parties cannot reach an agreement within six months after the beginning of the dispute between themselves, the latter shall, upon request of either Contracting Party, be submitted to an arbitration tribunal which shall be constituted as follows:

Each Contracting Party shall appoint an arbitrator and these two arbitrators shall nominate a chairman who shall be a national of a third State, which maintains diplomatic relations with both Contracting Parties.

3. If one of the Contracting Parties has not appointed its arbitrator and has not followed the invitation of the other Contracting Party to make that appointment within two months, the arbitrator shall be appointed upon the request of that Contracting Party by the President of the International Court of Justice.

4. If both arbitrators cannot reach an agreement about the choice of the chairman within two months after their appointment, the latter shall be appointed upon the request of either Contracting Party by the President of the International Court of Justice.

5. If, in the cases specified under paragraphs 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, and if the latter is prevented or if he is national of either Contracting Party, the appointment shall be made by the most senior Judge of the Court who is not a national of either Contracting Party.

6. The arbitration tribunal shall determine its procedure and shall reach its decisions by a majority of votes.

7. The decisions of the tribunal are final and binding for each Contracting Party.

8. Each Contracting Party shall bear the costs of its own member of the tribunal and of its representation in the arbitration proceedings; the costs of the chairman and remaining costs shall be borne in equal parts by the Contracting Parties. The tribunal may, however, decide that a higher proportion of costs shall be borne by one of the Contracting Parties and this award shall be binding on both Contracting Parties.

Article 9. More Favorable Provisions

If the domestic law of either Contracting Party, or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to this Agreement contain a regulation, whether general or specific entitling investments by investors of the other Contracting Party to a treatment more favorable than; provided for by this Agreement, such regulation shall to the extent that it is more favorable prevail over this Agreement.

Article 10. Consultations and Exchange of Information

Upon request by either Contracting Party, the other Contracting Party shall agree promptly to consultations on the interpretation or application of this Agreement.

Upon request by either Contracting Party, information shall be exchanged on the impact that the laws, regulations,

decisions, administrative practices or procedures or policies of other Contracting Party may have on investments covered by this Agreement.

Article 11. Scope of Application

1. After the date of entering into force of this Agreement, it shall apply to all investments in the territory of a Contracting Party made in accordance with its laws and regulations by investors of the other Contracting Party, including investments made before its entering into force.

2. This Agreement shall not apply to the disputes that have arisen before its entry into force, concerning the investments of the investors.

Article 12. Entry Into Force

This Agreement shall enter into force on the latter date on which either Contracting Party notifies the other that its internal legal formalities for the entry into force of this Agreement have been fulfilled.

Article 13. Duration and Termination

1. This Agreement shall remain in force for a period of 10 years. It shall remain in force thereafter until either Contracting Party notifies in writing the other Contracting Party of its intention to terminate this Agreement. The notice of termination shall become effective one year after the date of notification.

2. With respect to investments made prior to the date when the notice of termination of this Agreement becomes effective, the provisions of this Agreement shall continue to be effective for a period of 10 years from the date of termination of this Agreement.

In witness whereof the understanding, duly authorised thereto by their respective Governments, have signed this Agreement.

Done at Skopje on 20 June 2001 in two original versions, in the Macedonian,

Russian and English languages; all texts being equally authentic.

In a case of divergence of interpretation, the English text shall prevail.

For the Government of the Republic of Macedonia

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For the Government of the Republic of Belarus