

# AGREEMENT

## BETWEEN THE GOVERNMENT OF THE REPUBLIC OF BELARUS AND THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM ON THE PROMOTION AND PROTECTION OF INVESTMENTS \*)

**\*) Entered into force on November 24, 1994**

The Republic of Belarus and the Government of the Socialist Republic of Vietnam, hereinafter referred to as "Contracting Parties",

Based on the desire to expand and deepen economic cooperation on a long term basis, in particular, to create favorable conditions for capital investment by investors of one Contracting Party in the territory of the other Contracting Party,

Aware of the need to promote and protect investments by investors of both Contracting Parties, with a view to the economic prosperity of both countries,

HAVE AGREED AS FOLLOWS:

### Article 1. Definitions

In this Agreement:

1. The term "investment" means every kind of financial, materiel and other property and intellectual values invested by the investors of one Contracting Party in the various objects of activity on the territory of the other Contracting Party, in particular, but not exclusively:

- a) movable and immovable property and any other property rights such as the right to use the property as collateral for debts retention;
- b) shares, stocks, bonds and debt obligations of organizations and enterprises or property share of these organizations and enterprises;
- c) cash and the right to demand the execution of contractual obligations with economic value;
- d) intellectual property rights, industrial design, including copyright, the right to obtain a patent, the right to the trademark, service marks, trade names, inventions, technologies, "know-how" and business secrets;
- e) of the concession authorized by the legislation of each of the Contracting Parties or bilateral agreements between the Republic of Belarus and the Socialist Republic of Vietnam, including exploration, development, extraction or exploitation of natural resources.

2. The term "investment" means:

- a) investments in the territory of the Republic of Belarus, which are carried out in accordance with the current legislation of the Republic of Belarus;
- b) investments in the territory of the Socialist Republic of Vietnam, which are approved by the Government of the Socialist Republic of Vietnam or an institution authorized in accordance with the laws of the Socialist Republic of Vietnam.

Any change in the form of investment does not affect its classification as "investing", provided that such modification does not contradict the original form approved.

3. The term "returns" means the amounts of money and other property values received from the investment and includes in particular, but not exclusively, profits, interest, dividends, royalties and fees.

4. The term "investor" means any natural person who is a national of a Contracting Party, and any legal entity established in accordance with the laws of each Contracting Party.

5. The term "territory" means in relation to the territory of the Republic of Belarus, forming the state territory of the Republic of Belarus, and in the case of the Socialist Republic of Vietnam - the whole land, including islands, and territorial waters and air space over which exercises its sovereign rights and jurisdiction of the Socialist Republic Vietnam.

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

1. Each Contracting Party shall, in accordance with the current on territory of its State legislation encourages and creates favorable conditions for investors of the other Contracting Party to make investments on its territory and provide them with the right to dispose of these investments.

2. Investments of investors of either Contracting Party shall be guaranteed fair and equal treatment, and they are safe and protected in the territory of the other Contracting Party.

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

1. Investments made by investors of either Contracting Party in the territory of the other Contracting Party shall be accorded treatment no less favorable than for investments of investors of any third country.

2. Investors of one Contracting Party to put their money on the territory of the other Contracting Party and bearing losses owing to war or other armed conflict, revolution, a state of emergency, rebellion, revolution, unrest in the territory of that Contracting Party, or other similar actions should be given this the contracting party for damages, and these conditions should be not less favorable than those provided in this Contracting Party to investors of any third country.

3. The conditions referred to in paragraph 1 of this Article shall not apply to the benefits provided by one of the Contracting Parties to investors of third countries and the resulting:

Present or future agreements on the economic zones, economic or customs unions, free trade areas, other forms of regional cooperation;

Of the agreement on avoidance of double taxation or other international agreement, completely or partially related to taxation, as well as in the framework of the current legislation on the taxation of State of each Contracting Party.

## **Article 4. Compensation In Connection with Coercive Measures**

1. Neither Contracting Party shall in its territory administer, in respect of investments made in this area by the investor of the other Contracting Party, coercive measures such as nationalization, expropriation, or similar in its effect, except in cases where the public interest demands. In this case, the procedure established by the current legislation in this area, and to pay adequate compensation.

2. Such measures should not be discriminatory.

3. Compensation shall be calculated on the basis of the real value of the investment directly to the day preceding the day of the adoption or promulgation of the decision on the adoption of the measures referred to in paragraph 1 of this article, and will be determined in accordance with the principles of an objective assessment, adopted in international practice.

Compensation shall be paid in freely convertible currency at the rate, which is recognized as an official in effect on the date of determination of value. The amount of compensation is transferred without undue delay within the time normally required to carry out associated with the transfer procedure, but not later than three months from the date of acceptance provided for in paragraph 1 of this Article measures. Compensation shall include interest calculated from the date of determining the real value of the investments up to the date of payment in accordance with the commercial interest rate determined by the Central Bank of the Contracting Parties.

## **Article 5. Transfer of Payments, Revenue and the Movement of Movable Property In Connection with Investments**

1. Each of the Contracting Parties in accordance with their laws, regulations and administrative practices guarantee the free

transfer, in freely convertible currency of payments and revenues in connection with an investment on terms no less favorable than investors of any third country, in particular, but not exclusively:

- a) net income, dividends, fees for technical assistance and services, interest income and other cash flows resulting from investments;
- b) the funds owed to the investor as a result of total or partial liquidation of investments;
- c) cash sums in repayment of loans recognized as investments;
- d) wages and other incomes of the investor's country nationals to work in the territory of the host country in connection with an investment;
- e) the movement of the movable property in connection with the investment.

2. During the exchange rate on the payment coverage referred to in paragraph 1 of this Article shall be adopted currency rate, established in accordance with the legislation of each of the Contracting Parties at the time of the exchange.

## **Article 6. Settlement of Disputes between a Contracting Party and an Investor**

1. If a dispute arises between one Contracting Party and the investor of any other Contracting Party on:

- a) obligation arising from a Contracting Party in respect of an investor of the other Contracting Party regarding an investment of an investor;
- b) breach of any of the rights specified in this Agreement or arising out of it for investments of this investor.

Disputes are resolved as far as possible through mutual consultations and negotiations.

2. If within six months from the date of the written request disputing parties fail to reach a mutual agreement, the dispute shall at the request of one of the parties may be submitted for resolution:

- a) in the courts of the Contracting Parties in accordance with their competence;
- c) International Centre for Settlement of Investment Disputes ("the Centre"), taking into account the appropriate provisions contained in the Washington, DC March 18, 1965 Convention on the Settlement of Disputes between States and Nationals of Other States on the investment, if the States of both Contracting Parties are parties this Convention; or
- c) to ad hoc international arbitration in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law

3. Notwithstanding the provisions of paragraph 2 of this article relating to the transfer of the dispute to an arbitral tribunal, the investor has the right to choose the conciliation procedure.

## **Article 7. Settlement of Disputes between the Contracting Parties**

1. Any disputes arising between the Contracting Parties concerning the interpretation or application of this Agreement shall be settled through consultations and negotiations through diplomatic channels.

2. In case of failure to resolve the dispute between the Contracting Parties within six months after it began, at the request of one of its authorization should be referred to the Contracting Parties to the arbitration court.

3. Such an arbitral tribunal shall be constituted for each individual case in the following order. Within two months after receiving the request for arbitration, each Contracting Party shall appoint one arbitrator. These two arbitrators shall elect a national of a third state then, that with the consent of the two Contracting Parties shall be appointed Chairman of the tribunal. The Chairman shall be appointed within two months from the date of appointment of the other two members of the arbitral tribunal.

4. If specified in paragraph 3 of this Article the necessary appointments terms will not be made, either Contracting Party may, unless otherwise agreed to appeal to the International Court of Justice President to make the necessary appointments. If the President is a citizen of either Contracting Party or if he is unable for any reason to carry out the said function, then make the necessary appointments will be invited to the International Court of Vice-Chairman. If the Vice-President is a national of either Contracting Party or if he also can not be said function, then make the necessary appointments will be offered next in seniority of the member of the International Court of Justice who is not a national of either Contracting Party

and can no obstacles to implement said function.

5. The arbitral tribunal determines the question of the rules of procedure and decides by majority vote. The arbitration award shall be binding upon both Contracting Parties. The Contracting Parties shall bear the costs of the arbitrators and the Chairman in equal shares. The arbitral tribunal may, however, in its decision to determine that one of the Contracting Parties shall bear a larger share of spending, and such decision shall be binding on both Contracting Parties.

## **Article 8. Subrogation**

If a Contracting Party or its competent authority on the basis of a guarantee issued in respect of any of its investments investor pays compensation to the investor, this Contracting Party or its competent authority to acquire by subrogation the respective rights of the former investor based on this Agreement.

## **Article 9. Application of the Agreement**

1. This Agreement shall apply to all investments made in accordance with the law of the State within whose territory the investment.
2. Subject to the provisions of paragraph 1 of this Article, this Agreement shall apply to all investments made by investors of one Contracting Party in the territory of the other Contracting Party before or after the entry into force of this Agreement.
3. This Agreement may be updated and supplemented by agreement of the Contracting Parties.

## **Article 10. Entry Into Force, Duration and Termination**

1. This Agreement shall enter into force thirty days after the Contracting Parties have notified each other through diplomatic channels of the completion of relevant procedures necessary for the entry into force of this Agreement.
2. This Agreement is concluded for a 10-year term and shall remain in force after the expiration of this period, if its action is terminated in accordance with the procedure set out in paragraph 3 of this Article.
3. For the termination of this Agreement, any Contracting Party not later than one (1) year prior to the expiration of the first 10-year period or at any time after the expiry of this period, send a written notice to the other Contracting Party of denunciation of this Agreement.
4. In respect of investments made prior to the termination of this Agreement, there remains scope of Articles 1-9 of this Agreement within 10 (ten) years after the termination of the Agreement.

Done at Minsk on 8 July 1992 in two original copies, each in the Belarusian, Russian and Vietnamese languages, both texts being equally authentic. In case of different interpretations of the texts text in Russian has a decisive force.