

AGREEMENT between the Government of the Russian Federation and the Government of the Republic of Turkey regarding the Promotion and Reciprocal Protection of Investments

The Government of the Russian Federation and the Government of the Republic of Turkey, hereinafter referred to as the Contracting Parties,

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

Taking into consideration that the promotion and reciprocal protection of investments shall promote the development of mutual beneficial commercial and economic as well as scientific and technical co-operation,

Have agreed as follows:

Article I. Definitions

For the purposes of this Agreement:

1. The term "investor" shall mean for each Contracting Party:

- a) Any natural person who is a citizen of the State of that Contracting Party who has the right in accordance with the legislation of that Contracting Party to make investments in the territory of the other Contracting Party;
- b) Any legal person incorporated or constituted in accordance with the legislation in force in the territory of that Contracting Party provided that the legal person is competent in accordance with the legislation of that Contracting Party to make investments in the territory of the other Contracting Party.

2. The term "investments" shall mean all kinds of assets invested by investors of one of the Contracting Parties in the territory of the other Contracting Party in accordance with its legislation, in particular:

- a) Movable and immovable property as well as property rights thereto;
- b) Shares, stocks and other forms of participation in business enterprises or companies;
- c) Claims to money invested for the purpose of creating economic values related to investments;
- d) Copyrights, rights to industrial property (such as patents, trademarks and service marks, industrial samples and models), technology and know-how;
- e) Rights conferred by law or under contract to conduct economic activity, including commercial activity, related in particular to exploration, development, extraction and exploitation of natural resources.

Any alteration of the form in which assets have been invested or reinvested shall not affect the character of investments in the sense of this Agreement provided that this alteration is not in contradiction with the legislation of the Contracting Party in the territory where the investment was made.

3. The term "returns" shall mean amounts yielded as a result of investments according to paragraph 2 of this Article and includes in particular profit, dividends, interest, licence fees, technical assistance and service fees.

4. The term "territory" shall mean the territory of the Russian Federation or the territory of the Republic of Turkey and shall include their territorial seas, as well as their respective exclusive economic zones and continental shelves established in accordance with international law.

5. The term "legislation of the Contracting Party" shall mean the legislation of the state of the Contracting Party in respect of

both Contracting Parties.

Article II. Promotion and Protection of Investments

1. Each Contracting Party shall encourage investors of the other Contracting Party to make investments in its territory and create favourable conditions for them. Each Contracting Party shall admit such investments in accordance with its legislation on a base no less favourable than investments of investors of any third State which are admitted.

2. Investments of investors of one of the Contracting Parties made in the territory of the other Contracting Party shall be accorded fair and equitable treatment and shall enjoy full protection and security. Neither Contracting Party shall in any way impede by discriminatory measures the management, operation, maintenance, use, acquisition, expansion or disposal of investments. Each Contracting Party shall observe any obligation it may enter into with regard to investments of investors of the other Contracting Party.

Article III. Treatment of Investments

1. Each Contracting Party shall accord fair and equitable treatment to investments made by investors of the other Contracting Party in its territory.

2. The treatment referred to in paragraph 1 of this Article shall be as favourable as that granted to investments by its own investors or investors of any third State.

3. Subject to provisions of paragraphs 1 and 2 of this Article each Contracting Party shall accord to investments made in conformity with its legislation in its territory by investors of the other Contracting Party a no less favourable treatment that it accords to investments by its own investors.

4. The most favoured nation treatment granted in accordance with paragraph 2 of this Article shall not apply to benefits which the Contracting Party is providing or shall provide in the future:

In connection with the participation in a free trade zone, customs or economic union;

By virtue of economic co-operation agreements between the Russian Federation and states which have earlier formed the Union of Soviet Socialist Republics;

On the basis of the agreements for the avoidance of double taxation, or other arrangements on taxation issues.

5. Provisions of this Article shall apply also to the returns derived from the investments.

Article IV. Key Personnel

1. A Contracting Party shall, in accordance with its legislation of entry and sojourn of non-citizens, permit natural persons who are investors of the other Contracting Party and key personnel employed by companies of that other Contracting Party to enter and remain in its territory for the purpose of engaging in activities associated with investments.

2. A Contracting Party shall, in accordance with its legislation, permit investors of the other Contracting Party who made investments in the territory of the first Contracting Party to employ any employee of key personnel of their choice regardless of citizenship on condition that such employee has got the permission to entry, sojourn and work on the territory of the first Contracting Party and such job corresponds to conditions and time limits stipulated in such employee's permission.

Article V. Transparency of Laws

Each Contracting Party shall, with a view to promoting the understanding of its laws that pertain to or affect investments in its territory made by investors of the other Contracting Party, provide such laws public and readily accessible.

Article VI. Expropriation

1. Investments by investors of one Contracting Party made in the territory of the other Contracting Party shall not be expropriated, nationalized or subjected to measures having equivalent effect to expropriation or nationalization (such measures hereinafter referred to as expropriation), except for instances when such measures are taken in public interest, in accordance with legislation and general principles of the treatment provided for in Articles II and III of this Agreement, and

they are not discriminatory and are accompanied by payment of prompt, adequate and effective compensation.

2. The compensation shall be equivalent to the real value of the expropriated investment at the time the expropriatory action was taken or at the time when the impending expropriation became known. Compensation shall be paid without delay and shall be fully realizable, and freely transferable. In case of a delay the compensation shall bear interest until the date of payment.

Article VII. Compensation for Losses

Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war, civil disturbances or other similar occurrences shall be accorded no less favourable treatment by such other Contracting Party that is accorded to investors of any third state, as regards any measures it adopts in connection with such losses.

Article VIII. Transfers

1. Each Contracting Party shall permit the investors of the other Contracting Party, upon fulfilment by them of all tax obligations, unimpeded transfer abroad of payments in connection with their investments, and in particular:

- a) Returns;
- b) Principal and interest payments arising under a loan agreement related to an investment;
- c) Proceeds from sale or liquidation of all or one part of an investment; .
- d) Compensation stipulated in Article VI of this Agreement;
- e) Wages and other remunerations received by the nationals of one Contracting Party who have obtained work permits relative to an investment in the territory of the other Contracting Party.

2. Transfer of payments shall be made without delay in freely convertible currency at the rate of exchange applicable on the date of transfer pursuant to the currency regulations in force of the Contracting Party in whose territory the investment was made.

Article IX. Subrogation

The Contracting Party or its designated agency, having made payment to an insured investor in accordance with a guarantee issued for non-commercial risks connected with an investment in the territory of the other Contracting Party is by virtue of subrogation, entitled to exercise the rights of the investors to the same extent as the said investors. The said rights shall be exercised in accordance with the legislation of the latter Contracting Party.

Article X. Settlement of Disputes between a 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 arising in connection with investment activities, including disputes relating to the amount and procedure of payment of compensation to be paid in accordance with Article VI of this Agreement, or procedure of transfer to be made according to Article VIII of this Agreement, shall be subject to written notification with detailed comments which is sent by investor to the Contracting Party participating in this dispute. Parties in dispute shall to the extent possible, seek a settlement to this dispute in an amicable manner.

2. In case the dispute cannot be settled in this manner within the period of six months from the date of the written notification referred to in paragraph 1 of this Article, it shall be submitted for consideration to:

- a) A competent court or arbitration tribunal of the Contracting Party in the territory of which the investments were made;
- b) The Arbitration Institution of the Stockholm Chamber of Commerce;
- c) An ad hoc arbitration tribunal in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).

3. The decision of a competent court or the arbitration award shall be final and binding upon both parties to the dispute.

Each Contracting Party shall undertake to enforce this award in accordance with its legislation.

Article XI. Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation and application of this Agreement shall be settled through direct negotiations.

2. If a dispute is not settled in this way within six months from the beginning of negotiations, it shall be submitted to an arbitration tribunal upon the request of either Contracting Party.

3. Such arbitration tribunal shall be constituted for each individual case in the following way. Each of the Contracting Parties shall appoint one member of the tribunal within two months from the date of the receipt of the request of arbitration procedure. Those two members of the tribunal shall then select a national of a third State who on approval by both Contracting Parties shall be appointed as the Chairman of the arbitration tribunal within two months from the date of appointment of two other members.

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

5. The arbitration tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding upon both Contracting Parties. Each Contracting Party shall bear the expenses of its own member of tribunal and of its representation in the arbitral proceedings, the expenses connected with the activity of the Chairman of the arbitration tribunal and remaining expenses shall be borne by the two Contracting Parties in equal shares. The arbitration tribunal can, however, provide in its decision that one of the Contracting Parties shall bear a higher proportion of expenses and such decision shall be binding upon both Contracting Parties. The arbitration tribunal shall independently determine its own procedure.

Article XII. Consultations

The Contracting Party shall on request of the other Contracting Party consult promptly on any matter relating to the interpretation or application of this Agreement.

Article XIII. Application of the Agreement

This Agreement shall apply to all investments made by investors of one Contracting Party in the territory of the other Contracting Party after the 1st of January 1987.

Article XIV. Entry Into Force and Duration of the Agreement

1. Each Contracting Party shall notify in writing the other Contracting Party of the completion of its internal procedures required for the entry into force of this Agreement. This Agreement shall enter into force on the date of the last notification.

2. This Agreement shall remain in force for a period of fifteen years. Thereafter it shall remain in force until the expiration of twelve months from the date on which either Contracting Party shall give written notice of termination to the other Contracting Party.

3. This Agreement may be amended by mutual written agreement between the Contracting Parties. Any amendment shall enter into force when each Contracting Party has notified in written form that it has completed all internal procedures required for entry into force of such amendment.

4. With respect to investments made prior to the date of termination of this Agreement and to which this Agreement otherwise applies, the provisions of all the other Articles of this Agreement shall remain in force for a further period of fifteen years from such date of termination.

Done in duplicate at Ankara on December 15, 1997 in Russian, English and Turkish languages, all texts being equally authentic.

In case of divergence of interpretation of this Agreement, the English text shall be the operative one.

For the Government of the Russian Federation

For the Government of the Republic of Turkey