

# **Agreement of 10 February 1983 between the Government of the Socialist Republic of Romania and the Government of the People's Republic of China on the mutual promotion and protection of investments**

The Government of the Socialist Republic of Romania and the Government of the People's Republic of China (hereinafter referred to as the Contracting Parties),

Desiring to develop relations for economic cooperation between the two States, with a view to creating favorable conditions for the investment of investors of one Contracting Party in the territory of the other Contracting Party,

Have agreed as follows:

## **Article 1.**

(1) Each Contracting Party shall promote in the territory or investments of the investors of the other Contracting Party.

(2) The investments admitted according to the legal provisions of the contracting party on whose territory the investments are made shall enjoy the protection provided in this agreement.

## **Article 2.**

For the purposes of this Agreement:

(1) Investment means the direct or indirect participation or other forms of contribution allowed by each Contracting Party in accordance with its legal provisions, including the assets brought by the investor as a participation in the investment, as well as their increase in value and, in particular, not exclusively:

- a) shares of companies or other forms of participation in companies;
- b) movable and immovable property rights, as well as other real rights;
- c) reinvested benefits, debt rights or rights regarding activities having an economic value;
- d) industrial property rights, technological processes, know-how, copyrights, as well as other similar rights;
- e) concessions granted by law, in particular concessions on the exploration, extraction and exploitation of natural resources, including in maritime areas under the jurisdiction of one of the Contracting Parties.

(2) Profit means earnings, dividends and other forms of income derived from an investment.

(3) Investor means the economic organizations of each of the Contracting Parties having legal personality and which have the right to carry out economic cooperation activities with foreign countries, according to the laws of each Contracting Party.

(4) For the purposes of this Agreement:

- a) direct participations means the participations of an investor of a contracting party in a company or economic organization located in the territory of the other contracting party;
- b) indirect participation means the participation of an economic company or organization having its registered office in the territory of a Contracting Party, in another company or economic organization also located in that territory, when this first company or economic organization is constituted with the participation of an investor of to the other Contracting Party.

### **Article 3.**

(1) Neither Contracting Party shall, in its territory, subject the investments of investors of the other Contracting Party to less favorable treatment than that which it grants to investors of any third State.

(2) The provisions of paragraph (1) of this article shall not apply:

a) the advantages granted to an investor of a third State by one of the Contracting Parties on the basis of its participation in a customs union, free trade area or regional economic organization;

b) benefits granted to a third country investor by one of the Contracting Parties in accordance with a double taxation agreement or other international taxation agreement;

c) the advantages granted to a neighboring State by the Contracting Parties for the facilitation of frontier trade.

### **Article 4.**

(1) Investments made by investors of one Contracting Party in the territory of the other Contracting Party shall not be expropriated or subject to any other measures having a similar effect except in the public interest, in accordance with a legal procedure and against compensation. The compensation will be effectively achievable, freely transferable and carried out without undue delay.

(2) At the request of the interested party, the amount of compensation may be reassessed by a court or other competent body in the country where the investment was made.

(3) If a dispute concerning the amount of compensation between an investor of a Contracting Party and the other Contracting Party in whose territory the investment was made continues to exist after the amount has been reassessed by the court or other competent body of the the investment has been made, the dispute will be resolved by the two contracting parties in accordance with the provisions of art. 9 of this Agreement, if the investor has requested it from his government.

(4) If the investments of the investors of one Contracting Party, made in the territory of the other Contracting Party, have suffered losses due to war, a state of national emergency or other such causes, the latter Contracting Party shall grant such investors no treatment less favorable than that which it grants to investors of any third country in terms of measures to make up for losses.

### **Article 5.**

(1) Each Contracting Party shall ensure to the investors of the other Contracting Party, in accordance with its own legal provisions, the transfer of the following amounts related to the investment:

a) the invested contribution, the product of the liquidation or of the total or partial alienation of the investment;

b) benefits or other current income from the investment;

c) repayment of loans which both Contracting Parties have recognized as investment and payment of interest thereon;

d) earnings of nationals of a Contracting Party who are permitted to work within an investment objective carried out in the territory of the other Contracting Party.

(2) The transfers referred to in paragraph (1) of this article shall be made after the fulfillment of the legal obligations of the investors.

### **Article 6.**

If a Contracting Party makes a payment to an investor on the basis of a guarantee given in connection with an investment in the territory of the other Contracting Party, the other Contracting Party shall recognize the subrogation of the first Contracting Party to the investor's rights and obligations. the contractor following the subrogation will not exceed those of the guaranteed investor.

### **Article 7.**

Transfers according to art. 4, 5 and 6 shall be made without undue delay, in the convertible currency in which the

investment was made or in any other mutually agreed convertible currency, at the official exchange rate in force on the date of transfer, in the territory of the Contracting Party where the investment is located. .

## **Article 8.**

This Agreement shall apply to investments made after 1 July 1979 by investors of one of the Contracting Parties in the territory of the other Contracting Party, in accordance with the legal provisions of the latter Contracting Party.

## **Article 9.**

(1) Disputes between the Contracting Parties concerning the interpretation and application of this Agreement shall, as far as possible, be settled by negotiations between the two Parties. If such a dispute cannot be settled within 6 months of the commencement of the negotiations, then, at the request of one of the Contracting Parties, the dispute shall be submitted to an arbitral tribunal.

(2) The arbitral tribunal shall be constituted as follows: each Contracting Party shall appoint an arbitrator; the two arbitrators shall, by mutual agreement, propose to the two Contracting Parties a chairman who shall be a national of a third State, appointed by the two Contracting Parties. The arbitrators shall be appointed within 3 months and the chairman within 5 months of the date on which one of the Contracting Parties has made known to the other that it wishes to submit the dispute to an arbitral tribunal. If the arbitrators are not appointed within the agreed time limit, the Contracting Party which did not appoint the arbitrator shall agree to be appointed by the Secretary-General of the United Nations. If the two Contracting Parties cannot agree on the appointment of the President,

3. The arbitral tribunal shall render its ruling on the basis of the provisions of this Agreement and other similar agreements concluded by the Contracting Parties. The arbitral tribunal shall adopt its decisions by a majority of votes and its judgment shall be final and binding.

(4) Each Contracting Party shall bear the expenses of the arbitrator it has appointed and those incurred by its representatives in the proceedings of the tribunal. The expenses of the President and the other expenses shall be borne in equal parts by the Contracting Parties.

5. The arbitral tribunal shall establish its own procedure.

## **Article 10.**

(1) The Agreement shall enter into force 30 days after the mutual notification by the Contracting Parties of the completion of the internal legal procedures necessary for the entry into force of this Agreement. The agreement will remain in force for a period of 10 years. If neither Contracting Party notifies the other Contracting Party of the termination of this Agreement one year before the expiry of its period of validity, this Agreement shall remain in force.

After the expiration of the 10-year period, either Contracting Party may at any time notify the other Contracting Party of the termination of the Agreement, but it shall remain in force for one year after the termination has been notified.

(2) For investments made until the expiry date of the agreement, the provisions of the latter shall remain applicable for 10 years from the date of its expiry.

Signed in Bucharest, on February 10, 1983, in two originals, each in the Romanian, Chinese and English languages, all texts being equally authentic. In case of differences of interpretation, the English text will be considered as the reference text.

For the Government of the People's Republic of China

For the Government of the Socialist Republic of Romania

## **Protocol to the Agreement between the Government of the Socialist Republic of Romania and the Government of the People's Republic of China on the Promotion and Mutual Protection of Investments**

The Contracting Parties have agreed as follows, which shall form an integral part of the Agreement:

(1) Regarding art. 4 subsection (1):

The amount of compensation provided in art. 4 paragraph (1) of this agreement must be equal to the real value of the investments at the date of expropriation.

(2) Regarding art. 7:

The transfers "without undue delay", provided in art. Article 7 of this Agreement means that they must be completed within the time limit normally required for the completion of the transfer formalities.

Signed in Bucharest, on February 10, 1983, in two originals, each in the Romanian, Chinese and English languages, all texts being equally authentic. In case of differences of interpretation, the English text will be considered as the reference text.

For the Government of the People's Republic of China

For the Government of the Socialist Republic of Romania