

# Treaty between the Federal Republic of Germany and the Republic of Uzbekistan on the promotion and mutual protection of investments

The Federal Republic of Germany

And

The Republic of Uzbekistan -

In the desire to deepen economic cooperation between the two countries,

In the endeavor to create favorable conditions for the investments of nationals or companies of one State in the territory of the other State,

Recognizing that the promotion and the contractual protection of these investments contribute to stimulating private economic initiatives, to deepen economic cooperation and to increase the prosperity of the two peoples -

Have agreed as follows:

## Article 1.

For the purposes of this Treaty

1. The term "investments" includes assets of any kind, in particular

- a) ownership of movable and immovable property and other rights in rem such as mortgages and liens;
- b) shares in companies and other types of participation in companies;
- c) claims to money used to create economic value or claims to benefits that have economic value;
- d) intellectual property rights, such as, in particular, copyrights, patents, utility models, industrial designs, trademarks, trade names, trade secrets, technical processes, know-how and goodwill;
- e) concessions under public law, including exploration and exploitation concessions.

A change in the form in which assets are invested, their property as an investment is not affected;

2. The term "income" means the amounts accruing to an investment for a certain period, such as profit shares, dividends, interest, license or other charges;

3. The term "nationals" means:

a) As regards as the Federal Republic of Germany :

Germans within the meaning of the Basic Law for the Federal Republic of Germany,

b) As regards the Republic of Uzbekistan:

Persons who are citizens of the Republic of Uzbekistan within the meaning of the applicable law of the Republic of Uzbekistan;

4. The term "companies" means:

a) As regards the Federal Republic of Germany:

any legal person, any trading company or other company or association with or without legal personality having its seat in

the territory of the Federal Republic of Germany, whether or not its activity is directed to profit or not,

b) As regards the Republic of Uzbekistan:

Any legal person established and entitled to make capital investments in accordance with applicable law and having its seat in the territory of the Republic of Uzbekistan;

5. The term "free transfer" means:

a) the exchange of the amounts arising in national currency into freely convertible currency with their subsequent exportation abroad;

b) export abroad of amounts in freely convertible currency available on bank accounts of the investor.

Without prejudice to other procedures for the determination of nationality, a person who is a national passport issued by the competent authorities of the Contracting Party concerned shall be considered as a national of a Contracting Party.

## **Article 2.**

(1) Each Contracting Party shall, as far as possible, promote capital investments of nationals or companies of the other Contracting Parties in its territory and permit such investments in accordance with its laws. In any case, it will treat capital investments fairly and cheaply.

(2) A Contracting Party shall in no way affect the management, use, use or use of the investments of nationals or companies of the other Contracting Parties in its territory by means of arbitrary or discriminatory measures.

(3) Investments made in their territory by nationals or companies of the other Contracting Parties in accordance with the laws of a Contracting Party shall enjoy full protection of the contract. Income from the investment and, in the case of reinvestment, its income also enjoy the same protection as the investment.

(4) The Treaty shall also apply in the territories of the exclusive economic zone and the mainland base, provided that the international law of the respective Contracting Parties permits the exercise of sovereign rights or sovereign powers in these territories.

## **Article 3.**

(1) Each Contracting Party shall treat investments in its territory owned or under the influence of nationals or companies of the other Contracting Parties no less favorable than the investments of its own nationals and companies or investments of nationals and companies of third States.

(2) Each Contracting Party shall treat nationals or companies of the other Contracting Parties with a view to its action in connection with investments in its territory not less favorably than its own nationals and companies or nationals and companies of third States.

(3) This treatment does not relate to prerogatives granted by a Contracting Party to nationals or companies of third States because of their membership in a customs or economic union, a common market or a free trade zone or because of their association with it.

(4) The treatment provided for in this Article does not relate to benefits granted by a Contracting Party to third-country nationals or companies under a double-taxation agreement or other arrangements for taxation.

(5) An "activity" within the meaning of paragraph 2 shall be, but is not limited to, the management, use, use and use of an investment. A "less favorable" treatment within the meaning of this Article is to be considered in particular: restrictions on the purchase of raw materials and auxiliary materials, energy and fuels as well as production and operating means of all kinds, disability of sales of products at home and abroad as well as other measures with similar impact. Measures to be taken for reasons of public security and order, public health or morality shall not be considered as "less favorable" treatment within the meaning of this Article.

(6) The provisions of this article do not require a contracting party to extend tax advantages, exemptions and reductions granted to natural persons and companies established in its territory under the tax laws to natural persons and companies established in the territory of the other Contracting Party.

(7) Within the framework of their national legislation, the Contracting Parties shall examine carefully the applications for the entry and residence of persons of one Contracting Party who wish to enter the territory of the other Contracting Party in

connection with an investment; The same shall apply to employees of the one Contracting Party who enter the territory of the other Contracting Party in connection with an investment and wish to reside there in order to pursue an activity as an employee. Applications for work permits are also being examined carefully.

#### **Article 4.**

(1) Investments by nationals or companies of a Contracting Party shall enjoy full protection and security in the territory of the other Contracting Parties.

(2) Investments of nationals or companies of a Contracting Party may be expropriated in the territory of the other Contracting Parties only for the general good and for compensation, be subject to nationalization or to other measures which, in their effects, are equivalent to expropriation or nationalization. The compensation must correspond to the value of the expropriated investment immediately before the date on which the actual or imminent expropriation, nationalization or comparable measure became publicly known. The compensation must be paid without delay and is payable at the usual bank rate until the time of payment; It must in fact be usable and freely transferable. At the latest at the time of expropriation, nationalization or comparable measure, it is necessary to take appropriate measures for the fixing and performance of the indemnities. The legality of the expropriation, nationalization or comparable measure and the amount of the compensation must be able to be verified by ordinary proceedings.

(3) Nationals or companies of a Contracting Party who suffer losses in investments by war or other armed conflicts, revolution, national or truce in the territory of the other Contracting Party shall be treated no less favorably by the Contracting Party in respect of repayments, settlements, compensation or other consideration than their own Nationals or companies. Such payments must be freely transferable.

(4) There is also a right to compensation if, by means of state measures, the company is the subject of the investment, and its economic substance is thereby considerably impaired.

(5) With regard to the matters covered by this article, nationals or companies of a Contracting Party shall benefit from the most favorable treatment in the territory of the other Contracting Party.

#### **Article 5.**

Each Contracting Party shall guarantee to the nationals or companies of the other Contracting Parties the free transfer of payments in connection with an investment, in particular

- a) Of the capital and additional amounts for the maintenance or expansion of the investment;
- b) Of income;
- c) To repay loans;
- d) Of the proceeds in case of complete or partial liquidation or disposal of the investment;
- e) Of the compensation provided for in Article 4.

#### **Article 6.**

Where a Contracting Party makes payments to its nationals or companies on the basis of a guarantee for an investment in the territory of the other Contracting Party, that other Contracting Party shall recognize the transfer of all rights or claims of such nationals or companies by law or by reason of the rights of the former Contracting Party To the former Contracting Party. Furthermore, the other Contracting Party shall recognize the entry of the former Contracting Party into all such rights or claims (transferred claims) which the former Contracting Party is entitled to exercise to the same extent as its predecessor. Article 4 (2) and (3) and Article 5 shall apply mutatis mutandis to the transfer of payments under the transferred claims.

#### **Article 7.**

(1) Transfers pursuant to Article 4 (2) or (3), Article 5 or 6 shall take place immediately at the rate valid. A "transfer" takes place as "immediately", which takes place within a period which is normally necessary to observe the transfer formalities. The deadline begins with the submission of a corresponding application and may under no circumstances exceed two months.

(2) The exchange rate referred to in paragraph 1 of this Article shall be equal to the cross-rate resulting from the rates of exchange which the International Monetary Fund would use as the basis for the conversion of the currencies concerned into special drawing rights.

## **Article 8.**

In the case of carriage of goods and persons in connection with an investment, a Contracting Party shall neither switch off the transport companies of the other Contracting Parties, nor authorize them, if necessary, to carry out the transports. This includes carriage by

- a) Goods directly intended for investment within the meaning of the Treaty or acquired in the territory of a Contracting Party or a third State by an undertaking or on behalf of a company in which assets are invested under the Treaty;
- b) Persons traveling in connection with an investment.

## **Article 9.**

(1) Where, by virtue of the legislation of a Contracting Party or obligations under international law which exist or are established in the future between the Contracting Parties, a general or special rule which gives a more favorable treatment to the investments of the nationals or companies of the other Contracting Parties than under This Agreement shall be governed by this Treaty in so far as it is more favorable.

(2) Each Contracting Party shall comply with any other obligation which it has assumed in respect of investments in its territory by nationals or companies of the other Contracting Parties.

## **Article 10.**

This contract shall also apply to investments made by nationals or companies of one Contracting Party in accordance with the legislation of the other Contracting Party in its territory before the entry into force of this Treaty.

## **Article 11.**

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Treaty shall, as far as possible, be settled by the Governments of the two Contracting Parties.

(2) If a disagreement can not be settled in this way, it shall be submitted to an arbitration court at the request of one of the two contracting parties.

(3) The arbitral tribunal shall be constituted on a case-by-case basis by appointing a member to each of the Contracting Parties, and both members as members of a third State as chairman to be appointed by the Governments of the two Contracting Parties. Within two months, the members shall be appointed to the chairman within three months after the one party to the contract has informed the other that they intend to submit the dispute to an arbitration tribunal.

(4) If the deadlines set out in paragraph 3 are not met, any Contracting Party may, in the absence of any other agreement, ask the President of the International Court of Justice to make the necessary appointments. If the President has the nationality of either Contracting Party or if he is prevented from doing so for another reason, the Vice-President shall make the appointments. If the Vice-President also has the nationality of either Contracting Party or if he is also prevented from doing so, the Member of the Court of Justice, who is a member of the Court, who is not a national of one of the Contracting Parties.

(5) The arbitral tribunal shall decide by a majority of votes. Its decisions are binding. Each contracting party shall bear the costs of its member and its representation in the proceedings before the arbitration, the costs of the chairman and the other costs shall be borne equally by the two contracting parties. The arbitral tribunal may adopt a different cost regime. Moreover, the arbitral tribunal shall regulate its own procedures.

(6) If both Contracting Parties are also Contracting States to the Convention of 18 March 1965 on the resolution of disputes between States and nationals of other States, the above-mentioned arbitration tribunal may not be appealed to in the light of the provisions of Article 27 (1) of the Convention. The national or the company of a Contracting Party and the other Contracting Party, an agreement has been concluded in accordance with Article 25 of the Convention. The possibility of calling the arbitral tribunal provided for in the event of failure to comply with a decision of the arbitral tribunal of the said Convention (Article 27) or in the case of a transfer by law or by law under Article 6 of this Treaty shall remain unaffected.

## **Article 12.**

(1) Disputes concerning investment between one of the Contracting Parties and a national or a company of the other Contracting Parties shall, as far as possible, be settled amicably between the Contracting Parties.

(2) If the disagreement can not be settled within a period of six months from the date of its assertion by one of the two parties, it shall be subject to arbitration at the request of the national or the company of the other Contracting Party. In so far as the disputes do not reach a different agreement, the provisions of Article 11 (3) to (5) shall be applied mutatis mutandis, with the proviso that the members of the arbitration tribunal shall be appointed by the parties pursuant to Article 11 (3) Article 11 (3), each Contracting Party may, in the absence of any other arrangement, ask the President of the Arbitral Tribunal of the International Chamber of Commerce in Paris to make the necessary appointments. The arbitration shall be enforced under national law.

(3) The Contracting Party participating in the dispute shall not claim as an objection during an arbitration or the execution of an arbitration award that the national or the company of the other Contracting Party shall receive compensation for part of the loss or the total loss from an insurance Has.

(4) In the event that both Contracting Parties have also become Contracting States to the Convention of 18 March 1965 on the settlement of disputes between States and nationals of other States, differences of opinion under this Article between the parties to the dispute shall be subject to arbitration under the abovementioned Convention , Unless the parties to the dispute agree to a different agreement; Each Contracting Party hereby declares its consent to such proceedings.

## **Article 13.**

This Agreement shall apply irrespective of whether diplomatic or consular relations exist between the two Contracting Parties.

## **Article 14.**

(1) This Treaty shall be subject to ratification; The instruments of ratification shall be exchanged as soon as possible.

(2) This Agreement shall enter into force one month after the exchange of the instruments of ratification. It remains in force for ten years; After the expiry of which period, the term of validity shall be extended indefinitely unless one of the two Contracting Parties terminates the contract in writing with a notice period of twelve months before the expiry of the contract. After ten years, the contract may be terminated at any time by a period of twelve months.

(3) For investments made up to the date of the expiry of this Treaty, Articles 1 to 13 shall continue to apply for a further twenty years from the date of expiry of the Treaty.

Done at Bonn, 28 April 1993, in duplicate in the German, Uzbek and Russian languages, both texts being authentic. If the German and Uzbek texts are interpreted differently, the Russian text shall prevail.

For the Federal Republic of Germany

Kinkel

For the Republic of Uzbekistan

Safajew

## **Exchange of Letters**

Bonn, April 28, 1993

The Minister of Foreign Affairs of the Republic of Uzbekistan

Your Excellency

On the occasion of signing the agreement between the Republic of Uzbekistan and the Federal Republic of Germany on the claim and mutual protection of capital investments, I have the honor to inform you of the following:

The Government of the Republic of Uzbekistan, having learned that the competent authorities of the Federal Republic of Germany may grant measures to claim capital investments of German investors in Uzbekistan even before the entry into force of the Treaty, will apply the Treaty in advance from the date of signing. This declaration is made in the expectation that the Government of the Federal Republic of Germany will consider providing guarantees for capital investments in Uzbekistan before the entry into force of the Treaty.

Please accept, Your Excellency, the assurance of my highest consideration.

Safayev

To His Excellency

the Minister of Foreign Affairs of the Federal Republic of Germany

Dr. Klaus Kinkel

Bonn, April 28, 1993

The Federal Minister of Foreign Affairs

Excellency!

I have the honor to acknowledge receipt of your note of April 28, 1993, containing the following:

(...)

Please accept, Sir, the assurance of my highest consideration.

Kinkel

To His Excellency

the Minister of Foreign Affairs of the Republic of Uzbekistan

Mr. Sadyk Salikhovich Safayev

Tashkent, January 15, 1996

Embassy of the Federal Republic of Germany

Tashkent

The Embassy of the Federal Republic of Germany in Tashkent greets the Ministry of Foreign Affairs of the Republic of Uzbekistan and has the honor to propose on behalf of the Government of the Federal Republic of Germany, with reference to the Treaty between the Federal Republic of Germany and the Republic of Uzbekistan on the claim and mutual protection of capital investments signed in Bonn on April 28, 1993, the following agreement on the correction of an editorial defect:

(1) In the first sentence of Article 6 of the Agreement between the Federal Republic of Germany and the Republic of Uzbekistan on the Claims and Reciprocal Protection of Capital Investments, reference is erroneously made to Article 10 instead of Article 11, although it is clear from the context that Article 11 is meant. The first sentence of Article 6 therefore reads as follows: When a Contracting Party makes payments to its nationals or companies by way of guarantee in respect of an investment in the territory of the other Contracting Party, that other Contracting Party shall, without prejudice to the rights of the first-mentioned Contracting Party under Article 11, recognize the transfer to the first-mentioned Contracting Party of all rights or claims of those nationals or companies by operation of law or by virtue of a legal act.

It is agreed between the Parties that the above editorial amendment shall have retroactive legal effect from the date of signing of the Treaty between the Federal Republic of Germany and the Republic of Uzbekistan on the claim and mutual protection of capital investments.

If the Government of the Republic of Uzbekistan agrees with the proposals made under paragraphs 1 and 2, this note and the reply note expressing the agreement of the Government of the Republic of Uzbekistan will constitute an agreement between our two Governments which will enter into force on the date of the reply note of the Republic of Uzbekistan.

The Embassy of the Federal Republic of Germany avails itself of this opportunity to renew to the Ministry of Foreign Affairs

of the Republic of Uzbekistan the assurance of its highest consideration.

To the Ministry of Foreign Affairs of the Republic of Uzbekistan - Protocol Department - Tashkent

Tashkent

Ministry of Foreign Affairs of the Republic of Uzbekistan

Tashkent, January 15, 1996

The Ministry of Foreign Affairs of the Republic of Uzbekistan has the honor to acknowledge to the Embassy of the Federal Republic of Germany in Tashkent, with reference to Note No. 29/96 of January 15, 1996, receipt of the proposal to make the following editorial amendment to the Agreement of April 28, 1993 between the Republic of Uzbekistan and the Federal Republic of Germany on the claim and mutual protection of capital investments:

(...)

The Ministry assumes that the above-mentioned note of the Embassy and this note constitute an agreement between the Government of Uzbekistan and the Government of the Federal Republic of Germany on making the above-mentioned editorial change in the Treaty on the claim and mutual protection of capital investments signed in Bonn on April 28, 1993.

The Ministry takes this opportunity to renew to the Embassy the assurance of its highest consideration.

To the Embassy of the Federal Republic of Germany

Tashkent