

Agreement between the Government of the People's Republic of China and the Government of the Republic of Tajikistan on the Encouragement and Mutual Protection of Investments

The Government of the People's Republic of China and the Government of the Republic of Tajikistan (hereinafter referred to as "the Contracting Parties").

Wishing to encourage and protect investors from one Contracting Party to invest in the territory of the other Contracting Party and to create favourable conditions for such investments.

On the basis of the principles of mutual respect for sovereignty, equality and mutual benefit, and with a view to developing economic cooperation between the two countries,

Have agreed as follows:

Article 1.

In this Agreement:

1. The term "investment" means assets of every kind invested in the territory of the receiving Contracting Party in accordance with its laws and regulations, in particular.

(i) Movable and immovable property and property rights.

(ii) Shares or other forms of participation in enterprises and companies.

(iii) The right to claim money or to claim an act of economic value.

(iv) Copyrights, industrial property rights, know-how and processes.

(v) The right to engage in economic activities, in particular the exploration and exploitation of natural resources, as granted by law or contract.

2. The term "investor" means, with respect to any of the Contracting Parties.

(i) A natural person who is a citizen of a Contracting Party in accordance with its laws and regulations.

(ii) Enterprises and companies established in accordance with the laws and regulations in force in the territory of one of the Contracting Parties.

Provided that a natural person, enterprise or corporation shall have the right to make investments in the territory of the other Contracting Party in accordance with the laws and regulations of that Party.

3. The term "proceeds" shall mean the amounts arising from the investment, including, but not limited to, profits, dividends, interest and royalties.

The term "territory" shall mean.

(i) The territory of the People's Republic of China and the territory of the Republic of Tajikistan.

Article 2.

1. A Contracting Party shall encourage investors of the other Contracting Party to invest in its territory and shall permit such investments in accordance with its laws and regulations.

2. A Contracting Party shall, in accordance with its laws and regulations, provide assistance in obtaining visas and work permits for citizens of the other Contracting Party who are engaged in investment-related activities in its territory.

Article 3.

1. A Contracting Party shall guarantee, in its territory, equitable treatment and protection of the investments and investment-related activities of investors of the other Contracting Party.

2. The treatment referred to in paragraph 1 of this Article shall be no less favourable than that accorded to investments and investment-related activities of investors of any third State.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to privileges and immunities accorded or to be accorded by a Contracting Party to any investor or investment of a third State on the basis of:

(i) Participation in free trade zones, customs or economic unions, organizations for mutual economic assistance or international agreements providing similar benefits and privileges to participants in such organizations which were in force prior to the signing of this Agreement by one of the Contracting Parties.

(ii) International agreements on taxation and other tax treaties.

(iii) Agreement on border trade issues.

Article 4.

1. Investments made by investors of one Contracting Party in the territory of the other Contracting Party shall not be nationalized, expropriated or subjected to other measures having similar effects to nationalization, expropriation or other measures (hereinafter referred to as "expropriation"), except when the public interest so requires and in accordance with the procedure established by law, on a non-discriminatory basis and in return for compensation.

2. The compensation provided for in paragraph 1 of this Article shall be calculated on the basis of the actual value of the investment on the day before the adoption or announcement of the decision on expropriation.

The payment of compensation shall be without undue delay and shall be convertible and freely remitted from the territory of one Contracting Party to the territory of the other Contracting Party.

3. If an investor of one of the Contracting Parties who has made an investment in the territory of the other Contracting Party suffers losses as a result of war, a state of emergency, internal disturbances and other similar circumstances, and if the other Contracting Party in whose territory the investment is made takes measures to compensate for such losses or other related measures, it shall not accord such investor less favourable treatment than that accorded to any investor of a third State.

Article 5.

A Contracting Party shall, in accordance with its laws and regulations, ensure that the investor of the other Contracting Party remits the sums related to the investment after meeting all tax obligations, including.

(i) "Proceeds" as defined in paragraph 3 of article 1 of this Agreement.

(ii) All or part of the liquidation of the investment.

(iii) Disbursement of investment-related loan agreements.

(iv) Technical assistance, technical services and payment of management fees.

(v) Wages and other emoluments received by citizens of the other contracting party for investment-related work and services performed in the territory of the former contracting party and in the amounts determined by laws and regulations.

(f) Completion of payment for the corresponding contracted work.

Article 6.

The remittances referred to in Articles 4 and 5 of this Agreement shall be made in accordance with the official exchange rate of the Contracting Party in whose territory the investment is made on the date of the remittance.

Article 7.

This Agreement shall apply to all investments made after January 1, 1985.

Article 8.

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall, as far as possible, be settled through diplomatic channels.

2. If the dispute cannot be settled by such means within six months from the date of the submission of the dispute by one of the Parties, the dispute shall, at the request of one of the Parties, be submitted to an ad hoc arbitral tribunal.

3. The arbitral tribunal shall be composed of three arbitrators, to be established in the following manner: Within two months from the date on which one of the Contracting Parties receives written notification from the other Contracting Party that the dispute has been submitted to arbitration, each Contracting Party shall appoint one arbitrator. Within two months from the date of the appointment of the second arbitrator, the two arbitrators shall choose as the third arbitrator a national of a third country with whom both Contracting Parties have diplomatic relations and who shall preside as the presiding arbitrator with the agreement of both Contracting Parties.

4. If the arbitral tribunal has not been constituted within four months of receipt of the written notice of referral of the dispute to the arbitral tribunal, either Contracting Party may, in the absence of any other agreement, request the President of the International Court of Justice to make the necessary appointment. If the President of the International Court of Justice is a national of a Contracting Party or is otherwise unable to perform the above-mentioned functions, the senior judge of the International Court of Justice who is not a national of a Contracting Party shall be requested to make the necessary appointment.

5. The arbitral tribunal shall establish its own rules of procedure. It shall render its decisions in accordance with the provisions of this Agreement and the generally recognized principles of international law.

6. The decisions of the arbitral tribunal shall be made by a majority vote. The awards shall be final and binding on the Contracting Parties. At the request of any of the Contracting Parties, the arbitral tribunal shall state the reasons for its decision.

7. Each Contracting Party shall bear the expenses relating to the activities of the arbitrators appointed by it and the expenses of its representatives to the arbitral proceedings. The expenses relating to the activities of the presiding arbitrator and other costs shall be borne equally by the Contracting Parties.

Article 9.

1. Any dispute between a Contracting Party and an investor of the other Contracting Party concerning the amount of compensation for expropriation may be submitted to an arbitral tribunal.

2. The arbitration shall be established on a case-by-case basis in the following manner: each of the Parties to the dispute shall have one arbitrator, who shall choose a national of a third State having diplomatic relations with each of the Parties as the presiding arbitrator. The first two arbitrators shall be appointed within two months of the date of the written notification of the dispute to the arbitral tribunal, and the presiding arbitrator shall be chosen within four months. If the arbitral tribunal has not been constituted within the prescribed period of time, either party to the dispute may request the President of the Arbitration Institute of the Stockholm Chamber of Commerce to make the necessary appointments.

3. The Arbitral Tribunal shall establish its own rules of procedure, in which case it may refer to the rules of the SCC in establishing the procedure.

4. The award of the Arbitral Tribunal shall be made by majority vote. The award shall be final and binding on the disputing parties. Each Contracting Party shall be obliged to enforce the award of the Arbitral Tribunal in accordance with its respective laws.

5. The arbitral tribunal shall render its award in accordance with the provisions of this Agreement, the laws and regulations of the Contracting Party in whose territory the investment is made, including its conflicting norms, and the generally recognized principles of international law.

6. Each Party to the dispute shall bear the expenses relating to the activities of the arbitrators appointed by it and the expenses of its representative to the arbitral proceedings, and the expenses relating to the activities of the presiding

arbitrator and other expenses shall be borne equally by the Parties to the dispute.

Article 10.

If a Contracting Party grants to an investor of the other Contracting Party, in accordance with its laws and regulations or international agreements of which the Contracting Parties are members, more favourable treatment in respect of investment or investment-related activities than that provided for in this Agreement, it shall apply more favourably.

Article 11.

1. Representatives of the Parties may meet as necessary for the following purposes.

(i) Study the application of this Agreement.

(ii) Exchange of information on the legal aspects of investment and the possibility of making investments.

(iii) Settlement of disputes arising out of investments.

(iv) Study of other matters relating to investment.

(v) Study proposals for possible amendments and additions to this Agreement.

2. If one of the Contracting Parties proposes to hold consultations on any of the matters listed in paragraph 1 of this article, the other Contracting Party shall respond promptly. Consultations may be held alternately in Beijing and Dushanbe.

Article 12.

This Agreement shall enter into force for a period of five years on the thirtieth day following the date on which the Contracting Parties have notified each other in writing of the completion of their respective domestic legal proceedings.

This Agreement shall remain in force unless terminated by one of the Contracting Parties by written notice to the other Contracting Party at least one year prior to the expiry of the period of validity provided for in paragraph 1 of this article.

At any time after the expiry of the first five-year period of this Agreement, one of the Contracting Parties may terminate this Agreement by written notice to the other Contracting Party. Such notice shall take effect twelve months after the date of its receipt by the other Contracting Party.

Investments made prior to the date of termination of this Agreement in accordance with the provisions of Articles 1 to 11 shall remain in force for a period of fifteen years from the date of termination of this Agreement.

IN WITNESS WHEREOF, the undersigned representatives of the respective Governments, duly authorized thereto, have signed this Agreement.

IN WITNESS WHEREOF, the respective Governments have duly authorized their representatives to sign the present Agreement, signed at Beijing on 9 March 1993. Done in two copies, each in the Chinese, Tajik and Russian languages. All texts are equally authentic.

For the Government of the People's Republic of China

(Signed)

Delegate

Li Lanqing

For the Government of the Republic of Tajikistan

(Signed)

Delegate

Samadov.

This

Agreement signed on 9 March 1993 in Beijing. One and two

Part

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Each in the Chinese, Tajik and Russian languages. All texts being equally authentic.

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The Government of the People's Republic

Government of the Republic of Tajikistan

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