

# **Agreement between the Government of the Republic of Belarus and the Government of the Democratic People's Republic on promotion and mutual protection of investments**

The Republic of Belarus and the Government of the Democratic People's Republic,

Wanting to further develop mutually beneficial economic cooperation between Belarus and North Korea, hereinafter referred to as the Contracting Parties,

Striving to create favorable conditions for investments of investors of one State in the territory of another State,

Have agreed as follows:

## **Article 1. Definitions**

In this Agreement, the terms listed have the following meanings:

1. Investors - legal entities, including companies, associations and other associations or organizations adequately established or incorporated under the laws of one Contracting Party, as well as any individuals who are nationals of a Contracting Party, and invest in the territory of the other Contracting Party.
2. Investments - any kind of property, which is owned by an investor of one Contracting Party invested in the territory of another Contracting Party in accordance with the legislation of the latter Contracting Party and includes, in particular, but not exclusively:
  - a) movable and immovable property and any other property rights such as mortgages, liens and pledges;
  - b) stocks, shares, bonds and any other form of participation in companies;
  - c) claims in respect of money or any performance obligations under the contract, which have any economic value;
  - d) the rights to intellectual and industrial property rights (such as copyrights, patents for inventions, utility models, industrial designs, trademarks or service marks, trade names), know-how;
  - e) The right to engage in economic activities, including the rights to exploration, extraction or exploitation of natural resources, as well as all other concessions to engage in economic activities that are provided by law, contract or the decision of the competent authority in accordance with the law.
3. Revenues - amounts received by any of investments, and in particular, but not exclusively, include profits, interest, dividends, commissions, payments for technical assistance and maintenance, as well as other awards.
4. Territory:

In respect of the Republic of Belarus - the territory and airspace of the Republic of Belarus, where it exercises sovereign rights or jurisdiction in accordance with international law;

In respect of the Democratic People's Republic - the territory, territorial waters, airspace, the economic waters of the continental shelf and the Democratic People's Republic, where it exercises sovereign rights and jurisdiction in accordance with domestic law and international law.
5. Expropriation - expropriation authorities of one Contracting Party or of the total investments by investors of the other Contracting State or in the public interest and in the framework of this Agreement shall not be considered as a sanction for violation of the law.
6. Legislation in respect of each Contracting Party - the legislation of the Contracting Parties.

## **Article 2. Promotion of the Enjoyment and Protection of Investments**

1. Each Contracting Party shall create favorable conditions for investors of the other Contracting Party to make investments in its territory and shall admit such investments in accordance with its legislation.
2. Investments of investors of either Contracting Party shall constantly provide comprehensive legal protection on the territory of the other Contracting Party in accordance with this Agreement.

## **Article 3. Investment Regime**

1. Each Contracting Party shall accord in its territory to investors committed investment the other Contracting Party treatment no less favorable than that which it accords to investments and associated activities of its own investors or investors of any third state.
2. Each Contracting Party shall not take discriminatory measures that would impede the management or disposal of investments and maintenance, the use of investments in its territory by investors of the other Contracting Party.

## **Article 4. Exceptional Conditions**

1. Each Contracting Party has the right under its legislation to introduce or maintain non-discriminatory exemptions for investors of the other Contracting Party, as well as to investors of any third country in the sectors and areas of activity, which exclude or restrict the activities of foreign investors.
2. The provisions of this Agreement regarding the provision of treatment no less favorable than that accorded to the investors of the Contracting Parties themselves or to investors of any third state, shall not be construed so as to oblige one Contracting Party to extend to investors of the other Contracting Party the benefit of any treatment, preference or privilege, arising from:
  - a) any existing or possible future free trade agreement, a customs or economic union or a similar regional organization to which is or may become in the future one of the Contracting Parties;
  - b) any international agreement or arrangement relating wholly or mainly to taxation.

## **Article 5. Compensation for Losses**

1. Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, revolution, state of emergency, revolt, insurrection or riot, the latter Contracting Party shall be accorded treatment no less favorable than that it accords to its own investors or investors of any third state in regard to the recovery of damages, compensation or other settlement.
2. Investments of investors of either Contracting Party in the territory of the other Contracting Party shall not be subject to expropriation or other measures, the effect of which is equal to the expropriation (hereinafter - the expropriation), except in the public interest, on a non-discriminatory basis and in providing timely, adequate and effective compensation.

This compensation is the actual value of the expropriated investment at the time immediately preceding the implementation of expropriation, shall be paid within three months in the currency in which the investment was originally made. Until the payment of the amount of compensation will bear interest according to the law of the Contracting Party in whose territory the investment has been made.

3. Investors of one Contracting Party who suffered losses in the territory of the other Contracting Party shall be entitled to require the judicial or competent authorities of the latter Contracting Party shall promptly review the case and analyzing the evaluation of the relevant investment according to the principles set out in this Article.

## **Article 6. Free Transfer of Funds**

1. Each Contracting Party shall guarantee investors of the other Contracting Party after the payment of their respective taxes and duties free transfer abroad of payments related to its investments, in particular:
  - a) The income referred to in paragraph 3 of Article 1 of this Agreement;
  - b) repayments of loans, recognized by both Contracting Parties as investments;

- c) payments, intended to cover costs related to the management of investments;
- d) additional contributions required to maintain or expand the investment;
- e) proceeds from the sale or partial or complete liquidation of the investment;
- f) compensation provided for in Article 5 of this Agreement.

2. Transfers will be made without delay in freely convertible currency at the applicable on the date of transfer the exchange rate according to the applicable provisions of the law on currency regulation.

## **Article 7. Subrogation**

In the event that either Contracting Party has granted any financial guarantee against non-commercial risks in respect of investments made by one of its investors in the territory of the other Contracting Party, the latter shall recognize the rights of the first Contracting Party on the basis of the principle of subrogation rights of the investor, if the first Contracting Party It made payments under this warranty.

## **Article 8. Settlement of Disputes between a Contracting Party and an Investor of the other Contracting Party**

1. Disputes concerning investments between a Contracting Party and an investor of the other Contracting Party shall be settled friendly way.

2. If in this way within six months from the date of submission of the application for the settlement of disputes, these disputes are not resolved, they may be referred for consideration to:

- a) the competent court or tribunal of the Contracting Party in whose territory the investment has been made;
- b) the arbitral tribunal "ad hoc", to be established and act in accordance with the arbitration rules of the United Nations Commission on International Trade Law.

Chairman of the arbitral tribunal "ad hoc" must be a citizen of a third State with which the Contracting Parties have diplomatic relations.

3. Decisions of the arbitral tribunal shall be final and binding on both parties to the dispute.

## **Article 9. Settlement of Disputes between the Contracting Parties**

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall be resolved through negotiations.

2. If the Contracting Parties can not reach an agreement within six months after the dispute has arisen between them, the dispute shall be referred, at the request of either Contracting Party to an arbitral tribunal.

The arbitral tribunal shall consist of three members. Each Contracting Party shall appoint one arbitrator and these two arbitrators shall elect a chairman of the court, which must be a citizen of a third State with which the Contracting Parties have diplomatic relations.

3, the arbitrator shall be appointed if one of the Contracting Parties has not appointed its arbitrator and has not responded to the invitation of the other Contracting Party to make such appointment within two months from the date when one of the Contracting Parties expressed their intention to refer the dispute to an arbitral tribunal for request the latter Contracting Party, the International President of the Court.

4. If both arbitrators can not reach an agreement about the choice of President of the Court within two months of their appointment, the Chief Justice shall be appointed at the request of one of the Contracting Parties to the International Court of Justice.

5. If, in the cases provided for in paragraphs 3 and 4 of this Article, the President of the International Court of Justice can not perform the above steps, or if he is a citizen of either Contracting Party, the appointment shall be made Vice-Chairman. If the latter is also unable to do so or is a national of one Contracting Party, the appointment shall be made the next most senior member of the International Court of Justice who is not a national of either Contracting Party.

Appointment of Chairman shall be held within three months from the date of referral to the International Court of Justice.

6. A tribunal established under this Article shall take decisions by majority vote. These decisions are binding on both Contracting Parties. Each Contracting Party shall bear the costs of its designated member of the court relating to his activities.

Chairman of the court costs associated with its activities, and other expenses will be shared equally between the Contracting Parties. The Court itself defines the rules of their work.

## **Article 10. Investments Made Prior to the Entry Into Force of this Agreement**

This Agreement shall also apply to investments that are invested in the territory of one Contracting Party made in accordance with its legislation by investors of the other Contracting Party prior to the entry into force of this Agreement.

## **Article 11. Entry Into Force and Validity of this Agreement**

1. This Agreement shall enter into force on the date of the last written notification about the fulfillment by the Contracting Parties of the necessary domestic procedures.

2. This Agreement is concluded for a period of ten years. Its effect will be automatically renewed for successive five-year periods, unless either Contracting Party notifies in writing the other Contracting Party at least twelve months prior to the expiry of the period of its intention to terminate this Agreement.

3. In respect of investments made prior to the date of termination of this Agreement, the provisions of Articles 1 - 11 of this Agreement shall remain in force for the next ten years after that date.

This Agreement is made in two copies in g.Phenyane August 24, 2006, each in the Belarusian, Russian and Korean languages, all texts being equally authentic.

In case of divergence of interpretation of this Agreement will be given to the text in Russian.

For the Government of the Republic of Belarus

Deputy Minister of Foreign Affairs

V.A.GAYSENOK

For the Government of Korea

People's Democratic Republic

Deputy Minister of Foreign Trade

Cho Jeong CW