

# **AGREEMENT BETWEEN THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE GOVERNMENT OF THE CHINESE PEOPLE'S REPUBLIC ON PROMOTION AND MUTUAL PROTECTION OF INVESTMENTS**

The Government of the Union of Soviet Socialist Republics and the Government of the People's Republic of China, hereinafter referred to as the "Contracting Parties",

Wishing to promote, protect and create favorable conditions for the investments of investors of one Contracting Party in the territory of the other Contracting Party,

Based on the principles of mutual respect for sovereignty, equality and mutual benefit,

In order to develop economic cooperation between the two states

Have agreed on the following:

## **Article 1.**

For the purposes of this Agreement:

1. The term "investment" means all types of property values that are invested in the territory of a Contracting Party that accepts investments in accordance with its legislation, including in particular:

A) movable and immovable property and property rights;

B) shares or other forms of participation in enterprises and companies;

C) the rights of claim for funds and any obligations of economic value;

D) copyrights, industrial property rights, know-how and technology;

E) the right to conduct economic activity in accordance with legislation or contracts, including, in particular, the right to explore and exploit natural resources.

2. The term "investor" means, in respect of each of the Contracting Parties:

- Natural persons who are citizens of this Contracting Party in accordance with its legislation;

- Enterprises and companies established in accordance with legislation in force in the territory of that Contracting Party,

Provided that an individual, enterprise or company is entitled, in accordance with the legislation of that Contracting Party, to invest in the territory of the other Contracting Party.

3. The term "income" means amounts that are received as a result of investments, and in particular, but not exclusively, profits, dividends, interest and license fees.

4. The term "territory" means:

- The territory of the Union of Soviet Socialist Republics and the territory of the People's Republic of China, respectively;

- Marine areas adjacent to the outer limits of the territorial sea of each of the above-mentioned territories, over which the relevant Contracting Party exercises, in accordance with international law, sovereign rights or jurisdiction for the exploration, development, production, exploitation and conservation of natural resources of such areas.

## **Article 2.**

1. Each of the Contracting Parties shall encourage investors of the other Contracting Party to make investments and shall allow such investments in its territory in accordance with its legislation.
2. Each of the Contracting Parties shall, in accordance with its legislation, assist in obtaining visas and work permits from citizens of the other Contracting Party in connection with investments made on its territory.

## **Article 3.**

1. Each of the Contracting Parties undertakes to ensure on its territory an equitable regime and protection with respect to the investments of investors of the other Contracting Party and activities related to such investments.
2. The regime referred to in paragraph 1 of this article shall be no less favorable than the treatment accorded to investment of investors of any third state and activities related to such investments.
3. The provisions of paragraphs 1 and 2 of this article shall not apply to the benefits and advantages that the Contracting Party grants or will grant to future investors of any third state or their investments on the basis of:
  - Its participation in the free trade zone, customs or economic union, the organization of economic mutual assistance or in an international agreement providing for benefits and benefits similar to those granted to the Contracting Party to the participants of these organizations, and entered into force before the date of signing this Agreement;
  - An international agreement and other agreement on tax matters;
  - Agreements on cross-border trade.

## **Article 4.**

1. Investments of investors of one of the Contracting Parties carried out in the territory of the other Contracting Party can not be nationalized, expropriated or subjected to other measures having similar nationalization or expropriation consequences (hereinafter "expropriation"), except when such measures are taken in public interests, in compliance with the procedure established by law, on a non-discriminatory basis and are accompanied by the payment of compensation.
2. The compensation provided for in paragraph 1 of this Article will be calculated on the basis of the real value of the investment directly on the day preceding the day of the adoption or promulgation of the decision on expropriation.

Compensation must be paid without undue delay, be convertible and freely transferable from the territory of one Contracting Party to the territory of the other Contracting Party.
3. If the investments of investors of one Contracting Party are damaged in the territory of the other Contracting Party due to war, state of emergency, civil unrest or other similar circumstances, the Contracting Party in whose territory the investment is made should it take measures to recover damages or other relevant Measures will give these investors a no less favorable regime than that granted to investors of any third state.

## **Article 5.**

Each of the Contracting Parties, in accordance with its legislation, guarantees to investors of the other Contracting Party after the performance of all tax liabilities the transfer of amounts in connection with the investment, including:

- A) income, as defined in paragraph 3 of Article 1 of this Agreement;
- B) amounts from the full or partial liquidation of capital investments;
- C) payments made in accordance with the loan agreement in connection with investments;
- D) payments for technical assistance, maintenance and management experience;
- E) wages and other remuneration received by citizens of the other Contracting Party for work and services performed in connection with investments made in the territory of the first Contracting Party in the amount provided for by its legislation.

## **Article 6.**

The transfer of amounts in accordance with Articles 4 and 5 of this Agreement shall be effected at the official exchange rate of the Contracting Party in force on the date of transfer, on the territory of which the investment is made.

## **Article 7.**

This Agreement will apply to all investments that are made after January 1, 1985.

## **Article 8.**

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall, if possible, be settled through diplomatic channels.
2. If a dispute can not be resolved in this manner within six months from the date of the initiation of a dispute by one of the Contracting Parties, it shall, at the request of any of the Contracting Parties, be referred to the arbitration court "ayos".
3. The arbitral tribunal shall consist of three arbitrators and shall be established as follows: within two months from the date of receipt by one of the Contracting Parties of written notification to the other Contracting Party of the transfer of the dispute to arbitration, each of the Contracting Parties shall appoint one arbitrator. These two arbitrators shall, within two months from the date of the appointment of the second arbitrator, elect a third arbitrator, a citizen of a third State who has diplomatic relations with both Contracting Parties, who shall be appointed by the chairman of the arbitral tribunal with the consent of the Contracting Parties.
4. If the arbitral tribunal is not established within four months from the date of receipt of written notification of the transfer of the dispute to the arbitral tribunal, any of the Contracting Parties may, in the absence of any other agreement, invite the President of the International Court of Justice to make the necessary appointments. If the chairman is a citizen of one of the Contracting Parties or for another reason can not fulfill this function, the next seniority member of the International Court of Justice who is not a national of either Contracting Party may make the necessary appointments.
5. The arbitration court itself establishes the rules of procedure. The court makes decisions in accordance with the provisions of this Agreement and the generally recognized principles of international law.
6. The arbitral tribunal takes decisions by a majority of votes, these decisions are final and binding on both Contracting Parties. At the request of any of the Contracting Parties, the arbitral tribunal shall explain the reasons for its decision.
7. Each of the Contracting Parties shall bear the costs associated with the activities of the arbitrator appointed by it and its representation in the arbitration process. The Contracting Parties will bear the costs related to the chairman's activities and other expenses in equal parts.

## **Article 9.**

1. Any dispute between one Contracting Party and an investor of the other Contracting Party concerning the amount of compensation in the event of expropriation may be referred to the arbitral tribunal.
2. Such arbitral tribunal shall be established for each particular case as follows: each of the parties to the dispute will appoint one arbitrator, and the two arbitrators will elect a citizen of a third state who has diplomatic relations with both Contracting Parties as the chairman's arbitrator. The first two arbitrators are appointed within two months, and the chairman is elected within four months from the date of written notification of the transfer of the dispute to arbitration. If no arbitration court is established within the specified timeframe, either party to the dispute may invite the Chairman of the Arbitration Institute of the Stockholm Chamber of Commerce to make the necessary appointments.
3. The arbitral tribunal itself shall establish the rules of procedure. In doing so, the court may, in the course of determining the procedure, adopt the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce as a guide.
4. The arbitral tribunal shall render its decision by a majority of votes. Such a decision will be final and binding for both parties to the dispute. Each Contracting Party undertakes to enforce the award of the arbitral tribunal in accordance with its national law.
5. The Arbitral Tribunal shall render a decision in accordance with the provisions of this Agreement, the laws of the Contracting Party in whose territory the investments are made, including its conflict rules, as well as the generally recognized principles of international law.
6. Each party to the dispute will bear the costs associated with the activities of the arbitrator appointed by it and its

representation in the arbitration process. The costs associated with the activities of the chairman and other expenses of the party to the dispute will be borne in equal shares.

## **Article 10.**

If the provisions of laws or other regulations of a state of any of the Contracting Parties or obligations under international treaties that are currently in force or will be concluded between the States of the Contracting Parties in the future in addition to this Agreement contain provisions providing a more favorable treatment for investors' investments other Contracting Party than is enshrined in this Agreement, such provisions shall apply in the part of a more favorable for the investor.

## **Article 11.**

1. Representatives of both Contracting Parties will meet as necessary to:

- A) studying the application of this Agreement;
- B) exchange of information on the legal issues of investment and the possibility of their implementation;
- C) resolution of disputes arising in connection with capital investments;
- D) studying other issues related to investments;
- E) consideration of proposals on making possible amendments and additions to this Agreement.

2. If any of the Contracting Parties proposes consultations on any of the matters referred to in paragraph 1 of this article, the other Contracting Party shall respond promptly and consultations will be held alternately in Moscow and Beijing.

## **Article 12.**

1. This Agreement shall enter into force upon the expiration of thirty days from the date of written notification by the Contracting Parties to each other of their failure to comply with the relevant constitutional procedures and shall remain in force for a period of fifteen years.

2. This Agreement shall remain in force unless either Contracting Party notifies the other Contracting Party in writing of its termination at least one year before the expiration of the period specified in paragraph 1 of this article.

3. After the initial fifteen-year period, each of the Contracting Parties may at any time terminate this Agreement by notifying in writing its intention to the other Contracting Party. Such notification shall take effect 12 months from the date of its receipt by the other Contracting Party.

4. With respect to investments made before the date of termination of this Agreement, the provisions of Articles 1 to 11 shall remain in force for a further fifteen years, from the date of termination of this Agreement.

IN WITNESS WHEREOF the undersigned representatives duly authorized by their Governments have signed this Agreement.

DONE at Beijing on July 21, 1990, in duplicate, each in the Russian and Chinese languages, both texts being equally authentic.

(Signatures)