

# **AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF BELARUS AND THE GOVERNMENT OF THE REPUBLIC OF BULGARIA ON THE PROMOTION AND MUTUAL PROTECTION OF INVESTMENTS**

The Republic of Belarus and the Government of the Republic of Bulgaria, hereinafter referred to as "Contracting Parties",

Desiring to strengthen mutually beneficial economic cooperation, seeking to encourage and create favorable conditions for investments of investors of one Contracting Party in the territory of the other Contracting Party on the basis of equality and mutual benefit,

Recognizing that the promotion and reciprocal protection of investments under this Agreement promote business initiative in this field,

HAVE AGREED AS FOLLOWS:

## **Article 1. Definitions**

For the purposes of this Agreement:

1. The term "investment" means any kind of investment, invested by an investor of one Contracting Party in the territory of the other Contracting Party, provided that these investments were made in accordance with the legislation of the latter, in particular, but not exclusively:

a) The right of property and any other property rights and real security in the form of a mortgage, pledge or other;

b) share, stocks and other forms of participation in companies;

c) claims and other rights having economic value;

d) Intellectual property rights, including copyright and related rights, the rights to industrial property (patents, licenses, industrial designs, trademarks), appellations of origin, production processes, "know-how" and "goodwill";

e) rights to engage in economic activities, including, in particular, the right to exploration, development and exploitation of natural resources provided in accordance with the laws of the State of each of the Contracting Parties or the act of a competent state body.

Any change in the form in which the investments are made, does not affect their character as investments.

2. The term "income" means any income resulting from investments as profits, dividends, interest and other income earned in accordance with the laws of the State of each Contracting Party.

3. The term "investor" means:

Natural person who is a citizen of the State of one Contracting Party in accordance with its legislation; any company, firm, enterprise, organization or association, established in accordance with the laws of the State of each Contracting Party and located in its territory, regardless of whether it is a legal entity.

4. The term "territory" means the territory under the sovereignty of the Republic of Belarus, on the one hand, and the Republic of Bulgaria, on the other hand, including the territorial sea, continental shelf and exclusive economic zone over which the relevant State exercises sovereign rights and jurisdiction in accordance with international law.

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

1. Each Contracting Party shall promote and protect in its territory investments of investors of the other Contracting Party

and admit such investments in accordance with its laws and regulations.

2. Reinvested earnings are the same protection as the initial investments.

3. Each Contracting Party shall consider favorably and in accordance with the legislation of his State of issues relating to the entry, stay, work and movement in its territory of citizens of the other Contracting Party who carry out activities associated with investments, as defined in this Agreement, and their families.

### **Article 3. National Treatment and Most Favored Nation Treatment**

1. Each Contracting Party shall in its territory to investments and returns of investors of the other Contracting Party treatment no less favorable than that which it accords to investments and revenues of its own investors or to investments and returns of investors of any third State.

2. Each Contracting Party shall in its territory to investors of the other Contracting Party treatment no less favorable than that it accords to its own investors or investors of any third State for the management, maintenance, use or disposal of their investments.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to the advantages which the Contracting Party is providing or will provide in the future investors of any third State in respect of:

a) participation or associate membership in the existing or future customs union, free trade area, economic communities or similar institutions;

b) international treaties on avoidance of double taxation.

4. Each Contracting Party reserves the right to apply in accordance with the laws of their state exemptions from national treatment granted under paragraphs 1 and 2 of this Article. However, any such exemption would apply only to investments made after the entry into force of the said withdrawal.

5. If one of the Contracting Parties, in accordance with the laws of its State or an international treaty to which both Contracting Parties are parties, provides investment to investors of the State of the other Contracting Party and activities in connection with investments, a regime more favorable than the regime provided by this Agreement, then more favorable regime will apply.

### **Article 4. Compensation for Damages**

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 riots or other similar circumstances, be accorded treatment no less favorable than that which the latter Contracting Party shall accord to investors of the State or its investors of any third State as regards the restoration, reparation, compensation or other settlement.

### **Article 5. Expropriation**

1. Investments of investors of the State of either Contracting Party in the territory of the other Contracting Party shall not be subject to nationalization, expropriation or other measures, the effect of which is equivalent to nationalization or expropriation (hereinafter referred to as "expropriation"), except in the public interest related to the internal needs of the State the latter Contracting Party, in accordance with the laws of that State, on a non-discriminatory basis and in providing timely, adequate and effective compensation.

2. The compensation shall correspond to the market value of nationalized investment immediately before the coming into force of the act of nationalization, paid without delay and include annual interest rate, equaling a 12-month interest YBOK, for the period until the date of payment, the relevant freely convertible currencies in which investments are made. Any decrease in value as a result of the public announcement of the expropriation will be taken into account when determining the amount of compensation.

### **Article 6. Transfer of Payments**

1. Each Contracting Party shall permit investors of the other Contracting Party, after fulfillment of all tax obligations, free transfer of payments related to investment, in particular:

a) the amount of the original investment and additional amounts to maintain or increase investments;

- b) investment income;
  - c) amounts received from the total or partial liquidation of investments;
  - d) amounts required for the payment of costs arising from the operation of investments, such as: loan repayment; the payment of patent fees; payment of other expenses associated with an investment;
  - e) compensation in accordance with Articles 4 and 5 of this Agreement;
  - f) wages and other remuneration received by nationals of one Contracting Party for work and services performed in connection with investments made in the territory of the other Contracting Party, in accordance with the legislation of the latter.
2. Transfer of payments referred to in paragraph 1 of this Article shall be made without delay in a freely convertible currency at the date of transfer of the official exchange rate of the Contracting Party in the territory of the State of which the investment has been made.

## **Article 7. Subrogation**

Contracting Party makes payment to one of its investors, the State based on the guarantee contract in connection with investments made in the territory of the other Contracting Party, acquire by subrogation the rights and obligations of the said investor. Subrogation on the rights and obligations of the investor also applies to the transfer of the rights referred to in Article 5. The Contracting Party which has made a payment, can not acquire rights or obligations to a greater extent than is guaranteed by the investor.

## **Article 8. Disputes between the Contracting Parties**

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall be settled as far as possible by negotiations between the Contracting Parties.
2. If a dispute between the Contracting Parties can not be settled in this way within six months from the start of negotiations, at the request of either Contracting Party, it shall be submitted to an arbitral tribunal.
3. Such an arbitral tribunal shall be constituted for each individual case in the following way: Within three months of receipt of the request for arbitration, each Contracting Party shall appoint one member of the tribunal. These two members shall elect a national of a third state, which, after approval by both Contracting Parties shall be appointed Chairman of the Court. Chairman of the arbitral tribunal shall be appointed within two months from the date of appointment of the other two members of the court.
4. If specified in paragraph 3 of this Article the necessary appointments have not been made as possible, in the absence of any other agreement, either Contracting Party may request the President of the International Court of Justice to make such appointments. If the President is a citizen of either Contracting Party or any can not perform the specified function other reasons, please make the necessary appointments may be addressed to the Vice-President of the International Court. If the Vice-president is a national of one of the Contracting Parties, or also can not perform the specified function, please make the necessary appointments may be addressed to him the next-highest member of the International Court, which is not a national of either Contracting Party.
5. The Chairman and the members of the arbitral tribunal shall be nationals of States with which both Contracting Parties maintain diplomatic relations.
6. The arbitral tribunal shall make its decision based on the provisions of the Agreement concluded by the Contracting Parties, as well as generally recognized principles and norms of international law. He shall render its decision by majority vote. This decision is final and binding on both Contracting Parties. The Court shall determine its own procedure.
7. Each Contracting Party shall bear the expenses related to the activities of its own member of the court and its representation in the arbitration process. The costs associated with the President of the Court activities and other expenses The Contracting Parties shall bear in equal shares.

## **Article 9. Disputes between the Contracting Party and Investors of the other Contracting Party**

1. Disputes between an investor of the State of one Contracting Party and the other Contracting Party arising in connection

with the investments allowed for the possibility of a negotiated.

2. If so the dispute is not resolved within six months from the date of its occurrence, it can be submitted to:

The competent court of the Contracting Party that is party in the dispute;

Or, with regard to disputes on the basis of Articles 5 and 6 of this Agreement:

a) to an ad-hoc arbitral tribunal, created in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL);

b) the International Centre for Settlement of Investment Disputes (ICSID) to resolve disputes relating to investments between States and Nationals of other States established by the Washington Convention of 18 March 1965, in the case of the participation of the Contracting Parties to this Convention.

To this end, each party to the dispute must declare its consent to the use of one of the above-mentioned international arbitration procedures.

3. The arbitral tribunal shall make its decision on the basis of the national law of the Contracting Party party to the dispute, the provisions of this Agreement and the generally recognized principles and norms of international law.

4. The decision of the arbitrator shall be final and binding on both parties to the dispute and is performed in accordance with the national law of the Contracting Party that is a party to the dispute.

5. Each Contracting Party shall bear the expenses related to the activities of its own member of the court and its representation in the arbitration proceedings, and costs related to the Chairman of the Court activities and other expenses. The Contracting Parties shall bear in equal shares.

## **Article 10. Consultations**

The Contracting Parties on the proposal of any of them may enter into consultations on matters affecting the interpretation or application of this Agreement. The other Contracting Party shall take the necessary measures to carry out these consultations.

## **Article 11. Application**

This Agreement shall apply to all investments made by investors of one Contracting Party in the territory of the other Contracting Party prior to the entry into force of this Agreement.

## **Article 12. Entry Into Force**

1. This Agreement is subject to ratification and shall enter into force on the date of exchange of instruments of ratification and shall remain in force for fifteen years.

2. If either Contracting Party notifies in writing the other Contracting Party at least twelve months before the expiration of a fifteen-year period of its intention to terminate this Agreement, it shall be automatically renewed for successive five-year terms.

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 a further ten years after that date.

Done at Sofia, 21 February 1996 in two originals in the Belarusian, Bulgarian and Russian languages, all texts being equally authentic.

In the event of disagreement over the interpretation of the provisions of this Agreement shall prevail text in Russian.