

# **Agreement between the Government of the Republic of Azerbaijan and the Government of the Republic of Bulgaria on promotion and mutual protection of investments**

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

Wishing the development of economic cooperation between the two countries,

With the intention of promoting the investments made by investors of one Contracting Party in the territory of the other Contracting Party on the basis of equality and mutual benefit and creating more favorable conditions for them;

Recognizing that mutual encouragement and protection of investments in accordance with the Agreement will stimulate initiatives in this area;

Have agreed on the following:

## **Article 1. Definitions**

For the purposes of this Agreement:

1. "Investment" means any type of property which an investor of one Contracting Party has invested in the territory of the other Contracting Party in accordance with the legislation of the latter, in particular, except as follows:

- a) movable and immovable property, as well as any other property rights such as mortgages and liens;
- b) shares, stocks, securities and any other form of participation in the company;
- c) monetary claims and other claims of economic value;
- d) Intellectual property rights, including but not limited to copyright and related rights, patents, trademarks, industrial designs, and technical processes, as defined in multilateral agreements concluded under the auspices of the World Intellectual Property Organization to which both Contracting Parties are parties; rights, plant rights, know-how, and business reputation;
- e) The right to engage in entrepreneurial activity provided for by law, contract, or administrative act, including the right to explore, process, extract, or exploit natural resources.

The investment also includes an increase in the value of the assets referred to in subparagraphs (a) to (e).

Any change in the territory of the Contracting Party in which the investment is made, in the form of investment or reinvestment, in accordance with the law of that Contracting Party, shall not affect the nature of that investment.

2. The term "income" means, legally obtained as a result of investment income, as well as earnings, interest, fixed income, dividends, license fees, royalties and other fees understood.

3. "Investor" means and includes the following:

- a) A natural person who is a national of a Contracting Party and who invests in the territory of the other Contracting Party under its law;
- b) Any company, organization, partnership, or another type of association established or established in accordance with the law of a Contracting Party and located in the territory of that Contracting Party, whether or not it is a legal entity.

4. "Territory" means and includes the following:

(i) in respect of the Republic of Azerbaijan: the territory in which the Republic of Azerbaijan exercises its sovereign rights and jurisdiction, including inland waters, the sector of the Caspian Sea (lake) belonging to the Republic of Azerbaijan, the airspace over the Republic of Azerbaijan, subsoil, seabed and natural resources; or any other territory determined in accordance with the legislation of the Republic of Azerbaijan and international law or which may be determined in the future.

(ii) in relation to Bulgaria: the territory of the Republic of Bulgaria, including the territorial waters in which the Republic of Bulgaria exercises sovereign rights or jurisdiction over the Republic of Bulgaria in accordance with international law, as well as the continental shelf and special economic zone.

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

1. Each Contracting Party shall promote investments by investors of the other Contracting Party in the territory, they will create favorable conditions for these investments will be made in accordance with the laws of his state and the fair and equitable approach it.

2. In the event of re-investment of income from investments, re-investments, and the income from them, the initial investment will be subject to the rules applied in the treatment and prevention.

3. None of the Contracting Parties of investments made by investors of the other Contracting Party in its territory, management, maintenance, use, or the cancellation of the acquisition and will prevent arbitrary and discriminatory measures.

4. Each Contracting Party, as defined in the Agreement, which is engaged in business activities related to investments of the other Contracting Party, one of the citizens and their family members access to their territory, residence, work, and issues related to the country to act in accordance with the laws of the State towards creating favorable conditions.

## **Article 3. Investment Regime**

1. Each Contracting Party shall apply to the investments made by investors of the other Contracting Party in its territory a regime which is less favorable than that which it has created for the investments of its own or a third Party's investors.

Each Contracting Party shall not apply to the investors of the other Contracting Party in its territory any regime which is more favorable to its investors or to investors of a third State than the regime which it has established for the management, maintenance, use, use and liquidation of their investments.

2. The provisions of paragraphs 1 and 2 of this Article shall in no case be deemed to be the benefit of a Contracting Party to investors of the other Contracting Party and their investments arising from the privileges or advantages granted by the first Contracting Party to third-country investors or their investments:

(a) Participating or merging in any existing or future customs union, free trade area, economic union, multilateral investment agreement, or any other international agreement that may lead to such associations or other forms of economic cooperation;

(b) should not be construed as having to pay, now or in the future, by a multilateral or bilateral agreement or agreement relating to full or partial taxation.

3. Each Contracting Party shall have the right, under the law of its State, to make exceptions to the national treatment referred to in paragraphs 1 and 2 of this Article and to maintain its application. However, each new exception applies to investments made after its entry into force.

4. Obligations arising from the law of the State of one of the Contracting Parties or from international agreements that may be applied now or in the future between the Contracting Parties and other international agreements to which the Contracting Parties are parties. where such a general or specific rule is permitted, that rule shall prevail over this Agreement to the extent applicable.

5. Unless otherwise agreed, the procedure provided for in Article 3 shall apply to the entire Agreement.

## **Article 4. Compensation for Losses**

Investors of a Contracting Party who have suffered losses as a result of a war or other armed conflict, national emergency or other similar event in the territory of the other Contracting Party shall be liable to the investors of that Contracting Party or

to investors of any third country. Measures that are more favorable than those that are less favorable will be implemented. Payments are freely transferred in a freely convertible currency.

## **Article 5. Expropriation**

1. Investments of investors of a Contracting Party shall not be subject to expropriation and nationalization in the territory of the other Contracting Party, except in cases of urgent, efficient and adequate compensation, without discrimination in accordance with the law, for important state needs that cannot be satisfied by other means, or measures with a similar effect (hereinafter - expropriation).

1. Investments of investors of a Contracting Party in the territory of the other Contracting Party shall not be subject to expropriation, nationalization or similar measures (hereinafter referred to as expropriation), except for important public needs which cannot be satisfied by other means, without discrimination in accordance with the due process of law, and subject to prompt, adequate and efficient compensation.

2. Such compensation shall be paid before the expropriation or before the expropriation becomes public, without delay, in an amount equal to the current market value of the investment and a 12-month LIBOR interest rate for the currency in which the investment is made before the due date, depending on which occurred earlier.

3. Under the law of the State of the Contracting Party conducting the expropriation, the expropriated investor shall have the right to request that his case be considered without delay by an authorized legal or other independent officials of that Contracting Party and that his investment be assessed in accordance with this Article.

## **Article 6. Other Obligations**

Each Contracting Party shall fulfill in its territory any other obligation assumed by investors of the other Contracting Party in connection with investments.

## **Article 7. Transfers**

1. Each Contracting Party shall allow investors of the other Contracting Party to freely transfer the following amounts after making all tax liabilities and other obligatory payments, in particular, but without exception:

- a) additional amounts to maintain and increase capital and investment;
- b) income from investments;
- c) proceeds from the sale of investments or the liquidation in whole or in part;
- d) amounts required to cover investment costs: payments on debts, patent fees, license fees and other expenses;
- e) compensation paid in accordance with Articles 4 and 5;
- f) Compensation paid to nationals of the other Contracting Party in connection with investments made in the territory of a Contracting Party in accordance with the law of that State.

2. Transfers referred to in the preceding paragraph shall be made in the currency of the investor's country or in a freely convertible currency without delay in accordance with the currency legislation of the Party in whose territory the capital investment is made.

3. In accordance with Article 7, all transfers shall be subject to the treatment provided for in Article 3 of this Agreement.

## **Article 8. Subrogation**

1. If a Contracting Party or an agency designated by it makes indemnification for damages incurred in connection with an investment in the territory of the other Contracting Party, the other Contracting Party shall respect all rights and claims of the Party concerned by law or by local agreement. It shall recognize the transfer to a Party or its designated agency, and the first Contracting Party or an agency designated by it shall have the same right to exercise and claim such rights as the insured party under subrogation.

2. Subrogation of the Contracting Party or its designated agency in the rights and claims of the insured investor shall in the future apply to the right of transfer referred to in Article 7 of this Agreement.

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

1. Disputes arising between the Contracting Parties in connection with the interpretation or application of this Agreement shall be settled as far as possible through negotiations between those Contracting Parties.
2. If a dispute between the Contracting Parties is not settled within six months from the commencement of the negotiations, the dispute shall be submitted to an arbitral tribunal for consideration at the request of one of the Contracting Parties.
3. Such an arbitral tribunal shall be compiled for each individual case in the following order:

Within 3 months of the receipt of the request for arbitration, each Contracting Party shall appoint one member of the tribunal. These two members shall subsequently, with the consent of both Contracting Parties, elect a national of a third State to be appointed President of the Court. The chairman will be appointed within 2 months after the appointment of the other two members.

4. If the necessary appointments are not made within the time limits referred to in paragraph 3 of this Article, one of the Contracting Parties shall invite the President of the International Court of Justice to make any necessary appointments, unless otherwise agreed. If the Chairman is a national of a State of one of the Contracting Parties or he is unable to perform this function, the Deputy Chairman shall be invited to make the necessary appointments. If the Vice-President is a national of one of the Contracting Parties or is unable to perform this function, the next high-ranking member of the International Court of Justice, who is not a national of either Contracting Party, shall be invited to make the necessary appointments.
5. The arbitral tribunal shall render its decision on the basis of the provisions of this Agreement, as well as the generally accepted principles and rules of international law. The arbitral tribunal shall reach its decision by a majority of votes. Such a decision shall be final and binding on both Contracting Parties. The court determines its own procedure.
6. Each Contracting Party shall bear the costs of the detention and arbitration of a member appointed by the court. The Chairman's maintenance and other expenses shall be borne in equal installments by the Contracting Parties.

## **Article 10. Settlement of Investment Disputes**

1. Disputes between an investor of one Contracting Party and the other Contracting Party concerning the performance of an obligation under this Agreement to invest in the latter shall be settled, as far as possible, by negotiation.
2. If the dispute cannot be settled within six months from the date of the request of one of the Contracting Parties to settle it by negotiation, the investor whose interests have been affected may submit the dispute to:
  - a) the relevant court of the Contracting Party which is a party to the dispute;or
  - (b) in the event of a dispute relating to Articles 4, 5, 6, 7 and 8 of this Agreement, the affected investor may, at its discretion, submit the dispute to arbitration for arbitration:
    - i) a special (ad hoc) arbitral tribunal to be established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL); or
    - ii) the International Center for the Settlement of Investment Disputes, established under the Convention on Investment Disputes between States and Citizens of Other States, signed in Washington on 18 March 1965.

To this end, each Contracting Party hereby agrees to the above-mentioned international arbitration.

In the event of a dispute and if the Parties decide to file a claim in court or in an arbitral tribunal, they shall lose the right to appeal to one of the two bodies.

3. The decision shall be final and binding on both Parties to the dispute and shall be enforced in accordance with the law of the Contracting Party concerned.

The procedure for recognition and enforcement of a decision rendered by a national court or arbitral tribunal shall be determined in accordance with the national procedural law of the Contracting Party in whose territory the enforcement shall take place.

## **Article 11. Consultations**

Each Contracting Party may invite the other Contracting Party to consult on all matters relating to the interpretation or application of this Agreement. The other Contracting Party shall make the necessary preparations for such consultations.

## **Article 12. Application of the Agreement**

The provisions of this Agreement shall apply to investments made by an investor of a Contracting Party in the territory of the other Contracting Party before or after the entry into force of this Agreement but shall not apply to disputes arising before its entry into force.

## **Article 13. Amendments**

Additions and amendments to this Agreement may be made by mutual consent of the Contracting Parties. Such additions and amendments shall be formalized by separate Protocols as an integral part of this Agreement and shall enter into force in accordance with the provisions of Article 14 of this Agreement.

## **Article 14. Entry Into Force, Validity and Termination**

1. This Agreement shall enter into force on the date of receipt of the last written notification of the completion of the relevant internal procedures necessary for its entry into force.
2. This Agreement shall be concluded for a period of 5 (five) years and shall automatically enter into force for the next five years unless one of the Contracting Parties notifies the other Contracting Party in writing through diplomatic channels of its intention to terminate it 1 (one) year before its expiration. will remain.
3. The provisions of Articles 1 to 12 in respect of investments made prior to the date of termination of this Agreement shall remain in force for a further period of 10 years.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

This Agreement is signed in Baku on October 7, 2004 in two originals, each in the Azerbaijani, Bulgarian and English languages, all texts being equally authentic. In case of divergence of interpretation of the provisions of this Agreement, the English text shall prevail.

For the Government of the Republic of Azerbaijan

(signature)

For the Government of the Republic of Bulgaria

(signed)