

# **AGREEMENT BETWEEN THE GOVERNMENT OF THE RUSSIAN FEDERATION AND THE GOVERNMENT THE ALGERIA PEOPLE'S DEMOCRATIC REPUBLIC OF PROMOTION AND MUTUAL PROTECTION OF CAPITAL INVESTMENTS**

**(Algiers, 10 March 2006)**

Recognizing the right of each Contracting Party to define the conditions under which foreign investments can be received and the investor's duty to respect the host country's sovereignty and legislation; and

Convinced that the encouragement and protection of the investments will help to stimulate the liberalization of capital and the flow of investments and the transfer of technology between the two Contracting Parties in the mutual interest of development and economic prosperity

Have agreed as follows:

## **Article 1. Definitions**

For the purposes of the application of this Agreement:

(a) "investment" means every kind of asset and, in particular, though not exclusively, includes:

(i) movable and immovable property as well as the property rights such as leases, mortgages, liens or pledges;

(ii) shares in stock and debentures of a company and any other form of participation in a company's capital;

(iii) claims to money or to any performance under contract having an economic value;

(iv) intellectual property rights, in particular, copyrights, patents, utility-model patents, registered designs, trade-marks, trade-names, trade and technical processes, know-how; and

(v) rights or permits conferred by legislation or under contract, including concessions to search for, cultivate, extract or exploit natural resources.

Any change in which assets are invested does not affect their character as investments, if such change is not in contradiction with the legislation in force of the Contracting Party in the territory of which the investments were made.

(b) "investors" means in respect of either Contracting Party:

(i) the nationals of a Contracting Party, being those natural persons deriving their status as nationals of a Contracting Party from the law of that Contracting Party; and

(ii) the companies of a Contracting Party being any legal person, corporation, firm or association, incorporated or constituted in accordance with the legislation of that Contracting Party;

(c) "returns" means the amounts yielded by an investment and, in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and fees.

(d) "territory of the Contracting Party":

For Russian Federation, the term "territory" means the territory of the Russian Federation, as well as their respective exclusive economic zone and continental shelf defined in accordance with the Convention on the Law of the Sea (1982).

For the People's Democratic Republic of Algeria, the term "territory" means the land territory, territorial sea as well as the maritime areas over which People's Democratic Republic of Algeria exercises its jurisdiction and/or sovereign rights for the purposes of exploration, exploitation, conservation and management of natural resources pursuant to international law and national legislation.

(e) "legislation of the Contracting Party" means the laws and other regulations of the Russian Federation or the laws and other regulations of the People's Democratic Republic of Algeria.

## **Article 2. Scope of Application of this Agreement**

This Agreement shall apply to any investments made by investors of one Contracting Party in the territory of the other Contracting Party after 1 January 1992. This Agreement shall not however apply to disputes arising prior to its entry into force.

## **Article 3. Encouragement of Investments**

Each Contracting Party encourages in its territory investments by investors of the other Contracting Party and shall admit such investments in accordance with its legislation.

## **Article 4. Treatment of Investments**

1. Investments and returns of investors of either Contracting Party shall at all time be accorded fair and equitable treatment and shall enjoy full protection in the territory of the other Contracting Party. Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the management, maintenance, use, enjoy or disposal of investments in its territory of investors of the other Contracting Party.

2. Without prejudice to the legislation of the Contracting Party in the territory of which the investments are made, the treatment mentioned in paragraph 1 of this Article should be not less favorable than that which it accords to investments and returns of its own investors or to investments and returns of investors of a third state.

3. The provisions of paragraph 1 and 2 of this Article shall not be construed so as to oblige one Contracting Party to extend to the investments of the investors of the other Contracting Party the benefit of any treatment preference and privilege resulting from:

(a) any existing or future customs union, free trade area, common market, common economic area to which either of the Contracting Parties is or may become a party;

(b) agreement for the avoidance of the double taxation or other international arrangement relating wholly or mainly to taxation;

(c) agreements between the Russian Federation and the states, which had earlier formed part of the Union of Soviet Socialist Republic.

4. Without prejudice to the provisions of the Articles 5, 6 and 8 of this Agreement the Contracting Parties may accord the treatment no more favorable than the treatment granted by each Contracting Party in accordance with the multilateral arrangements concerning the treatment of investments in which both Contracting Parties participate.

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

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, revolt, insurrection, riot or other similar circumstances in the territory of the other Contracting Party shall be accorded by the latter Contracting Party treatment as regards restitution,

Indemnification, compensation or other settlement not less favorable than that which the latter Contracting Party accords to its own investors or to investors of a third state.

## **Article 6. Nationalization or Expropriation**

Investments made by investors of either Contracting Party shall not be nationalized or subjected to measures having effects equivalent to nationalization and expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for public purposes, under due process of law, on non-discriminatory basis and against payment of

prompt, adequate and fair compensation. Such compensation shall be at least equal to the market value of the investments expropriated immediately before the expropriation or before the impending expropriation became public knowledge whichever is the earlier, shall include interest rate at a normal commercial rate until the date of payment, shall be made without delay and shall be effectively realizable.

## **Article 7. Transfer of Payments**

1. Each Contracting Party shall allow the investors of the other Contracting Party which have fulfilled all their tax obligations to freely transfer payments relating to their investments and returns, including compensation paid pursuant to Articles 5 and 6 of this Agreement.
2. All transfers shall be effected without delay in any freely convertible currency at the market rate of exchange applicable on the date of transfer.
3. The transfers specified in paragraphs 1 and 2 of this Article shall be done in accordance with the foreign exchange legislation of the respective Contracting Party.

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

1. For the purpose of solving disputes with respect to investments between a Contracting Party and investors of the other Contracting Party consultations will take place between the parties to the dispute with a view to solving the dispute amicably.
2. Where these consultations do not result in a solution within six months from the date of request for consultation the investor may submit the dispute at its choice for settlement to:
  - a) the competent court of the Contracting Party in the territory of which the investments have been made; or
  - b) the International Center for Settlement of investment disputes (ICSID) provided for by the Convention on the Settlement of investment disputes between States and Nationals of the other State opened for signature at Washington DC on 18 March 1965 (when both Contracting Parties have become a party to the said Convention) or in accordance with Additional Rules of ICSID (when one or both Contracting Parties have not become a party to the said Convention); or
  - c) an ad hoc arbitral tribunal which unless otherwise agreed upon by the parties to the dispute shall be established under the arbitration rules of the United Nations Commission on International Trade (UNCITRAL).
3. Each Contracting Party hereby consents to the submission of an investment dispute to settlement through consultations or arbitration in accordance with this Article.
4. An Arbitration award shall be final and binding upon both parties to the dispute. Each Contracting Party to ensure the enforcement of this award in accordance with its legislation.

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

1. Disputes between the Contracting Parties regarding the interpretation or application of the provisions of this Agreement shall be settled through negotiations.
2. Where the Contracting Parties cannot reach an agreement within twelve months from the beginning of the negotiations the dispute shall upon the request of either Contracting Party be submitted to an arbitral tribunal of three members. Each Contracting Party shall appoint an arbitrator and those two arbitrators shall nominate a chairman of the arbitral tribunal who shall be a citizen of a third state.
3. Where one of the Contracting Parties has not appointed its arbitrator within two months of the receipt of the request for arbitration the arbitrator shall be appointed upon the request of the other Contracting Party by the President of the International Court of Justice.
4. Where both arbitrators cannot reach an agreement about the choice of the chairman of the arbitral tribunal within two months after their appointment and in the absence of any other agreement between the Contracting Parties the latter shall be appointed upon the request of either Contracting Party by the President of the International Court of Justice.
5. Where in the cases specified under paragraphs 3 and 4 of this Article, the President of the International Court of Justice is

a citizen of either Contracting Party or is otherwise prevented from carrying out the said function, the appointment shall be made by the Vice President of the International Court of Justice. Where the Vice President of the International Court of Justice is a citizen of either Contracting Party or is otherwise prevented from carrying out the said function the appointment shall be made by the most senior judge of the International Court of Justice who is not a citizen of either Contracting Party.

6. The arbitral tribunal shall determine its rules of procedure.

7. Each Contracting Party shall bear the costs of the arbitrator it has appointed and of its representation in the arbitral proceedings. The cost of the chairman of the arbitral tribunal and the remaining costs shall be born in equal parts by the Contracting Parties.

8. The decisions of the arbitral tribunal are final and binding on the Contracting Parties.

## **Article 10. Subrogation**

1. If one of the Contracting Parties or its designated agency makes a payment to one of its own investors in terms of guarantee against non-commercial risks it has given in respect of investments in the territory of the other Contracting Party, the other Contracting Party shall recognize the assignment whether by legislation or by legal transaction to the former Contracting Party of all rights and claims of the indemnified investor and shall recognize that the former Contracting Party or its designated agency shall not be entitled to exercise any rights other than the rights, which the investor would have been entitled to exercise.

2. Such rights shall be exercised in accordance with the legislation of the latter Contracting Party.

3. The subrogation does not affect any right the latter Contracting Party may have with

Regard to the investor.

## **Article 11. Application of other Rules**

1. If the provisions of the legislation of either Contracting Party or obligations under international law existing at the present or established hereinafter between the Contracting Parties contain rules whether general or specific, entitling investments and returns of investors of the Contracting Party to treatment more favorable than that is provided for by this Agreement such rules shall to the extent that they are more favorable prevail over this Agreement.

2. Investments which are the subject of a special agreement between one of the Contracting Parties and an investor of the other Contracting Party shall be governed by the provisions of the said agreement to extent that those provisions are more advantageous than those contained in the present Agreement.

## **Article 12. Consultations**

The Contracting Parties shall consult at the request of either of them, on the matter concerning the interpretation or application of this Agreement.

## **Article 13. Amendment to this Agreement**

This Agreement may be amended in writing by mutual consent of the Contracting Parties. Any amendment shall enter into force after each Contracting Party was notified by the other Contracting Party in writing that the latter has completed all internal state requirements for the entry into force of such amendment.

## **Article 14. Entry Into Force of this Agreement**

The Contracting Parties shall inform each other in writing when their respective internal state requirements for entry into force of this Agreement have been fulfilled. This Agreement shall enter into force on the date of the latter of the two notifications.

## **Article 15. Duration and Termination of this Agreement**

1. This Agreement shall remain in force for the period of ten years. Upon expiration of this period it shall be automatically extended for subsequent period of ten years unless one of the Contracting Party notifies the other Contracting Party in writing at least twelve months before of expiration of the respective period about its intention to terminate this Agreement.

2. With respect to investments made prior to the date of termination of this Agreement

The provisions of all Articles, except for Articles 13, 14 and 15, of this Agreement shall continue to be in effect for a period of ten years after the date of its termination.

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

Done at Algiers on 10 March 2006 in duplicate in Russian, Arabic and English languages, all texts being equally authentic. In case of divergence of interpretation between the three languages the English text shall prevail.