

AGREEMENT BETWEEN THE ISLAMIC REPUBLIC OF PAKISTAN AND THE SOCIALIST REPUBLIC OF ROMANIA ON THE MUTUAL PROTECTION AND GUARANTEE OF INVESTMENT OF CAPITAL

The President, Islamic Republic of Pakistan and the Socialist Republic of Romania, hereinafter referred to as "Contracting Parties",

With the purpose of creating favourable conditions for investment of capital to be made by investors of the Islamic Republic of Pakistan in the territory of the Socialist Republic of Romania and by the investors of the Socialist Republic of Romania in the territory of the Islamic Republic of Pakistan,

Having in view that for promoting the economic, industrial and technical co-operation between the two countries participating in the Agreement as developing countries, the levels of economic development of these countries are to be taken into account:

Recognizing the need to protect investment, as defined later in this Agreement, made by investors of one Contracting Party in the territory of the other Contracting Party,

HAVE AGREED AS FOLLOWS

Article 1.

(1) Each Contracting Party shall in its territory promote the investments of capital by investors of the other Contracting Party.

(2) Investments of capital admitted in accordance with the legislation of the Contracting Party in the territory of which investments are made, shall enjoy the protection and guarantee as provided in this Agreement.

Article 2.

(1) The term "investment of capital" means every equity (participation, participation quota), intended to realise economic objectives, including every part of the capital in which an investor has a right, and every increase in its value, especially but not exclusively:

i) Foreign exchange, imported machinery and equipment;

ii) Know-how, technology, patents, which the competent authority of the other Contracting Party may approve for the purpose.

(2) The term "investor" means:

a) In respect of the Islamic Republic of Pakistan: the Pakistani Nationals and industrial undertakings with head office in Pakistan, engaged in the production, distribution or processing of any goods, the providing of services specified in this behalf by the Federal Government of the Islamic Republic of Pakistan or the development and extraction of such mineral resources and products as may be specified in this behalf by the Federal Government, and

b) In respect of the Socialist Republic of Romania: Romanian economic units having legal personality and which according to Law are entrusted with foreign trade and international economic co-operation duties.

(3) The term "profit" shall mean earning profits, the amount yielded by an investment as not profit or other sums produced by the capital for a specific period determined in accordance with the law of the country in which the investment is made.

Article 3.

(1) Each Contracting Party shall not subject, in its territory, the investments of capital or investors of the other Contracting Party to a less favourable treatment than that granted to the investments of capital or investors of third States with which similar agreements have been concluded.

(2) If the legislation of one of the Contracting Parties or an existing international obligation or an obligation which is assumed in the future by the Contracting Parties besides the present Agreement results in granting to the investments of capital and investors of the other Contracting Party a more favourable treatment than that provided in the present Agreement, such treatment shall be available to the investments of capital and investors of the other Contracting Party.

(3) Each Contracting Party shall observe whatever other obligations are assumed especially in respect of an investment of capital made in its territory by the investors of the other Contracting Party.

Article 4.

(1) Investments of capital made by the investors of one Contracting Party in the territory of the other Contracting Party cannot be expropriated but only in public interest and against a compensation according to due process of law. Such compensation must correspond to the value of the investment on the date of expropriation, it must be effectively achievable, freely transferable and paid without undue delay.

At the time of expropriation or prior to it, a proper procedure shall be prescribed to establish the amount and the method of payment of compensation. The amount of compensation may be subject to review by due process of law.

If a dispute between an investor and the Contracting Party in the territory of which the investment was made, concerning the amount of compensation, continues to exist after the final award of the national tribunal, each of them is entitled to submit the dispute for conciliation or arbitration, according to procedure provided by the Convention opened for signature at Washington on March 18, 1965, to the International Centre for Settlement of Investment Disputes.

(2) The investors of the Contracting Parties, whose investments have suffered losses on the territory of the other Contracting Party, owing to a war or other armed conflict, or to a revolution, a national emergency, or rebellion or an insurrection shall benefit from the latter as regards the compensation, a treatment no less favourable than that is recorded to the investors of third countries. The amounts regarding these compensations shall be freely transferable.

(3) In all cases the investors of capital of either of the Contracting Parties shall not be accorded terms and conditions which are less favourable than those granted to a third country by either Contracting Party.

Article 5.

Each Contracting Party guarantees in connection with the investments of capital of the investors of the other Contracting Party the free transfer of capital, profits derived from and, in case of liquidation or alienation, of the proceeds of the liquidation or alienation after due fulfilment of legal provisions in force in the country in the territory of which the investment is made, as well as of other obligations derived from the documents of approval of said investment.

Article 6.

If one of the Contracting Parties makes to its investors payments under a guarantee granted in respect of an investment of capital made in accordance with the present Agreement, the other Contracting Party shall recognise the transmittal of the rights and obligations of the insured investor, as derived from the documents of implementation of the investment, to the Contracting Party which has made the payment. The paying Contracting Party shall not be entitled to obtain rights or to assume obligations greater than those of the insured investor; it may exercise such rights only after payment of taxes and fees and fulfilment of any duties arising from the documents of admission of the investment.

Article 7.

The transfer under Articles 4 (paragraphs 1 and 2), 5 and 6 is effected without delay in the convertible currency in which the investment of capital has been admitted or in any other convertible currency, if so agreed, at the official rate of exchange in force at the date of transfer.

Article 8.

(1) If a dispute or difference arises between the Contracting Parties concerning the interpretation and implementation of the

Agreement, the same shall be settled as far as possible by negotiations between the two Parties. If such a dispute or difference is not resolved within six months from the date of starting negotiations between the Parties, then upon the request of either Contracting Party the same shall be referred to an Arbitral Tribunal. The Arbitral Tribunal shall comprise of two Arbitrators; each Party to appoint one Arbitrator. The two Arbitrators shall propose a Chairman of the Arbitral Tribunal, who should be citizen of a third State, within five months from the date either Contracting Party makes known to the other that it wishes to submit the dispute or difference to an Arbitral Tribunal. If either Party fails to appoint Arbitrator on its behalf within three months, the Secretary-General to the United Nations Organization may be requested by the other Contracting Party to appoint an Arbitrator. If the two Contracting Parties fail to reach an agreement on the choice of the Chairman, the Secretary-General to the United Nations Organization would be requested by either Contracting Party to appoint a person as Chairman as early as possible.

(2) The Arbitral Tribunal shall decide on the basis of the provisions of the present Agreement and those of similar Agreements concluded by the Contracting Parties, as well as following the principles and rules of the International Public Law. The Arbitral Tribunal's decision shall be by a majority of votes and its decision shall be final and binding on both the Parties. Only the two Contracting Parties are allowed to submit cases to the Arbitral Tribunal and to participate in the proceedings.

(3) Each Contracting Party bears the expenses of the Arbitrator it appoints and those of its representatives in the tribunal proceedings. The other expenses, including those regarding the Chairman, shall be borne in equal parts by the Contracting Parties.

(4) The Arbitral Tribunal shall determine its own procedure and the venue of the proceedings.

Article 9.

(1) The Agreement shall be ratified in accordance with the respective constitutional procedure of the two Contracting Parties and shall enter into force on the date of exchange of the instruments of ratification.

(2) The Agreement shall remain in force for a period of ten years and may be extended for further periods of ten years unless one of the Contracting Parties has at least one year before the expiry of the Agreement expressed in writing its desire to terminate it. After the expiry of the initial period of ten years, the Agreement may be denounced at any time, but it shall continue to remain in force one more year after its denunciation.

(3) In respect of investments made prior to the date of expiry of the Agreement, its provisions continue to apply for ten years, from the date of its expiry.

Signed in Islamabad on 21st January 1978 in two originals in the English and Romanian languages, both texts being equally authentic.

FOR THE ISLAMIC REPUBLIC OF PAKISTAN,

FOR THE SOCIALIST REPUBLIC OF ROMANIA,