

# **AGREEMENT BETWEEN THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN AND THE GOVERNMENT OF TURKMENISTAN ON THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENT**

The Government of the Islamic Republic of Pakistan and the Government of Turkmenistan hereinafter referred to as Parties.

DESIRING to promote, protect and create favourable conditions for investments by investors of one Party on the territory of the other Party,

TAKING INTO ACCOUNT that reciprocal promotion and protection of such investment on the principles of equality and mutual benefit shall stimulate economic and social development of each Party,

AGREEING that impartial and just status of investments is desirable in order to maintain a stable framework of investment and maximum effective utilization of economic resources, and

HAVING resolved to conclude an agreement concerning the encouragement and reciprocal protection of investment,

AGREED as follows:

## **Article 1.**

For the present Agreement the following terms shall stand for:

1. "Investor" – any physical entity being citizen of either Party and any legal entity constituted in accordance with either Party's legislation;
2. "Investment" shall encompass all types of rights and assets which the Investors of either Party acquire on the territory of either Party, in conformity with its legislation and rules, for purpose of investment.
3. "Returns" - the amounts yielded by an investment, in particular payments, profits, dividends, interests and licensed rewards.
4. "Territory" - means the territory of each Party and also sea regions adjacent to the seaboard of the Party where this Party in accordance with the international rights exercise sovereign rights or jurisdiction with the purpose of exploration, elaboration, exploitation and preservation of natural resources.

## **Article 2.**

1. Each Party shall encourage investors of the other Party to invest on its territory and in accordance with its legislation admit such investments.
2. Investments indicated in paragraph 2 of Article 1 and all incomes concerning with it will be fully defended in accordance with this Agreement. The same concerns without prejudice to paragraph 1 of this Article to all incomes from re-investment of these incomes. Any expansion, change or transformation of investments in accordance with laws will be considered as a new investment.

## **Article 3.**

1. Each Party shall ensure a fair and equitable regime in their territories in the respect of investments of investors of other Party and its activities concerning these investments.
2. The regime indicated in paragraph 1 of the present Article can not be less favourable than that granted to or any third country investors for investments and activities concerning these investments. paragraph 1 of the present Article can not be

less favourable than that granted to or any third country investors for investments and activities concerning these investments.

3. Paragraphs 1 and 2 of the present Article shall not be applied to favours granted or to be granted by the Parties in future to investors of any third state or their investments; Paragraphs 1 and 2 of the present Article shall not be applied to favours granted or to be granted by the Parties in future to investors of any third state or their investments;

In connection with participation in a free economic zone, customs or economic union, organization of mutual economic assistance and also an international agreement, providing benefits and advantages, similar to those which were provided to the participants of mentioned organizations, and coming into force before signing of the present Agreement;

International agreement or other agreement on the questions of taxation; agreement on the questions of border trade.

4. None of the Parties by no means will take on the territory arbitrary or discriminative measures preventing from management and disposing investments of the other Party.

5. Each of the Parties in accordance with its roles will render assistance to the citizens of the other Party in receiving visas and permits for employment in connection with investments on its territory.

6. Investors of each of the Parties shall be permitted to employ management and technical personnel of their choice irrespective of nationality, in accordance with the legislation of the Party, on the territory of which investment activity takes place.

7. Each Party shall receive the right to determine branches of economy and spheres of activities restricted or limited for investments of the other Party.

#### **Article 4.**

1. Investments of either Party accomplished on the other Party's territory shall not be subject for nationalization, expropriation or measures of similar effect (herein after referred to as "Nationalization") except for cases when such measures are taken in public interests, as stipulated by legislation in a non-discriminatory manner, upon payment of compensation.

2. Compensation stipulated in paragraph 1 of the present Article shall be equivalent to the real value of investment at the moment of practical nationalization and shall be paid without delay. Until the moment of payment interest shall be put down to the compensation sum according to the interest rate of the Party hosting the investment. The compensation sum shall be converted and transferred from the territory of one Party to the territory of the other Party. paragraph 1 of the present Article shall be equivalent to the real value of investment at the moment of practical nationalization and shall be paid without delay. Until the moment of payment interest shall be put down to the compensation sum according to the interest rate of the Party hosting the investment. The compensation sum shall be converted and transferred from the territory of one Party to the territory of the other Party.

3. If the investments of investors of one Party are damaged in the territory of other Party because of war, extra ordinary situations, civil disturbances or some other similar circumstances, in this case the Party in the territory of which the investment has been made will take necessary measures to give to these investors a regime no less favourable than granted to investors of any third country.

#### **Article 5.**

1. Each Party guarantees to the other Party's investors free transfer of money resulting from investments according to the exchange rate existing at the date of the transfer after all relevant taxes and duties paid, in particular those of:

- a) Returns as stipulated in paragraph 3, Article 1 of the present Agreement; paragraph 3, Article 1 of the present Agreement;
- b) Sums paid off for loans recognized by the Parties as investments;
- c) Proceeds from partial or full liquidation of investments;
- d) Salaries, wages and other remunerations earned by those nationals of a Party having received permission for employment connected with investments on territory of the other Party;
- e) Compensation pursuant to Article 4 of the present Agreement; Article 4 of the present Agreement;

#### **Article 6.**

If a Party or its appointed representative on the basis of guarantees given to them in accordance with investments of investors of this Party, will pay compensation to an investor, this Side or its representative gain in the order of subrogation the rights of investor based on this Agreement.

## **Article 7.**

1. Disputes between one of the Parties and an investor of the other Party, arising from investment, shall be settled, preferably, through negotiations.
2. In case a dispute is not resolved in that manner within six months from the moment of its origin, the dispute may be submitted upon the demand of the other Party to a competent court of arbitration of the Party hosting the investment.
3. In the case if both Parties are members of Convention on settlement of disputes between States and citizens of other States concerning investments of 18 March, 1965, the disputes between the Parties will be decided in the court of arbitration in accordance with the above Convention. Convention on settlement of disputes between States and citizens of other States concerning investments of 18 March, 1965, the disputes between the Parties will be decided in the court of arbitration in accordance with the above Convention.
4. In case of one or both Parties not being members of the Convention on settlement of disputes between States and the citizens of other states, then at the demand of the Party or investors of other Party the dispute will be settled by an Ad Hoc court of arbitration which consists of three arbitrators, in accordance with the Arbitration Rules of Procedure of the United Nations Commission for International Trade Law (UNCITRAL) taking into account all amendments till the last amendment approved by both Parties at the moment of appliance for arbitration procedure. Parties will also submit to this court of arbitration in the absence of any agreement on arbitration. Convention on settlement of disputes between States and the citizens of other states, then at the demand of the Party or investors of other Party the dispute will be settled by an Ad Hoc court of arbitration which consists of three arbitrators, in accordance with the Arbitration Rules of Procedure of the United Nations Commission for International Trade Law (UNCITRAL) taking into account all amendments till the last amendment approved by both Parties at the moment of appliance for arbitration procedure. Parties will also submit to this court of arbitration in the absence of any agreement on arbitration.
5. During arbitration trial or carrying out the decision of arbitration Party taking part in the dispute would not adduce as a proof that the investor of other Side had received partly or fully compensation for suffering damage in the basis of insurance.

## **Article 8.**

1. If necessary the representatives of both Parties will organize meetings with the purpose of:
  - a) To study questions of application of present Agreement;
  - b) Exchange of information in legal questions of investments and about possibilities of its realization;
  - c) Settlement of disputes in connection with investments;
  - d) To study on other questions concerning investments;
  - e) Discussion of proposals about possible changes and additions in the present Agreement.
2. If any of the Parties will suggest consultations on any questions mentioned in paragraph 1 of this Article, other Party would immediately respond, and consultations will be held alternatively in Ashgabat and Islamabad. paragraph 1 of this Article, other Party would immediately respond, and consultations will be held alternatively in Ashgabat and Islamabad.

## **Article 9.**

1. Disputes between the Parties concerning interpretation and application of the present Agreement shall be resolved through negotiation between the Governments of the Parties.
2. In case a dispute is not resolved within 6 months from the date of the origin of the dispute at the request of either Party it may be submitted to an arbitration court.
3. The arbitration court shall be established separately for each concrete case. The Parties shall appoint one member of the court and both members of the arbitration court jointly agree upon a national of a third country who is appointed by the Governments of both Parties as the court chairman. Members of the court shall be appointed within two months and

chairman - within three months from the moment when either Party declares its intention to submit the issue to arbitration court.

4. If the court of arbitration will not be established within 4 months from the date of receipt of notification to transmit the dispute in Arbitration court, any Party may, in the absence of any other agreement, advise the Chairman of International Court to make necessary appointments. If the Chairman is a citizen of one of the Parties or can not perform this function for some other reasons, then all necessary questions will be solved by the next senior member of International Court who is not a citizen of any of the Parties.

5. The court of arbitration shall take decisions by majority vote. This decision shall be final and imperative for the Parties. At the request of either Party the arbitration court shall explain the motives of its decision.

6. Each of the Parties shall bear expenses originating from activities of the relevant arbiter and its representation in the arbitration court. Expenses relating to the Chairman's activities as well as other court expenses shall be borne by the Parties in equal parts if it is not stipulated otherwise by the arbitration court.

7. The court of arbitration shall take independent decisions on all other issues of its procedure. The court shall take decisions in accordance with the present agreement and conventional rules of international law.

## **Article 10.**

The present Agreement shall be applied without any exception to all investments, which have been made in the territories of one of the Parties in accordance with its rules and laws for investors of other Parties from the moment of establishment of diplomatic relations between the Parties.

## **Article 11.**

1. The present Agreement shall enter into force on the fifth day after the Parties notify each other on fulfilment of their necessary constitutional procedures and shall remain valid for 10 years.

2. The present Agreement will remain in force if none of the Parties would inform other one in writing for terminating 12 months before term of expiring mentioned in paragraph 1 of this Article.paragraph 1 of this Article.

3. In relation to investments accomplished before the date of termination of the present Agreement, provisions of Article 1-10 shall remain valid for further 10 years after the date of terminating the validity of the present agreement.Article 1-10 shall remain valid for further 10 years after the date of terminating the validity of the present agreement.

Done at Ashgabat on the 26th day of/1994, in three originals, each in English, Turkmen and Russian. In case of different interpretation of the texts of the present Agreement the text in English shall prevail.

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN