AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF TURKEY AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA CONCERNING THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of Turkey and the Government of the People's Republic of China, hereinafter referred to as "the Contracting Parties".

Desiring to promote greater economic cooperation between them, particularly with respect to investment by investors of one Contracting Party in the territory of the other Contracting Party;

Recognizing that agreement upon the treatment to be accorded to such investment will stimulate the flow of capital and technology and the economic development of the Contracting Parties;

Having resolved to conclude an agreement concerning the encouragement and reciprocal protection of investments;

Have agreed as follows:

Article 1. Definitions

For the purpose of this Agreement;

1. The term "investment" means every kind of asset, connected with business activities, invested by an investor of one Contracting Party in the territory of the other Contracting Party in conformity with its laws and regulations, and shall include in particular, but not exclusively:

(a) movable and immovable property, as well as any other rights as mortgages, liens, pledges and any other similar rights;

(b) reinvested returns, claims to money or any other rights having financial value related to an investment;

(c) shares, stocks or any other form of participation in companies;

(d) industrial and intellectual property rights such as patents, industrial designs, technical processes, as well as trademarks, goodwill, know-how and other similar rights;

(e) business concessions conferred by law or by contract, including concessions related to natural resources;

(f) rights under contracts, including turkey, construction, management, production, or revenue sharing contracts;

provided that such investments are not in the nature of acquisition of shares or voting power less than 10 percent of a company through stock exchanges without establishing lasting economic relations, which shall not be covered by this Agreement.

2. The term "investor" means:

(a) natural persons deriving their status as nationals of a Contracting Party according to its laws,

(b) corporations, firms, business partnerships incorporated or constituted under the law of a Contracting Party and having their registered offices together with substantial business activities in the territory of that Contracting Party,

(c) corporations, firms, business partnerships incorporated or constituted under the laws of al non-Contracting Party but directly owned or controlled by nationals in Paragraph (a) or enterprises in Paragraph (b),

who have made an investment in the territory of the other Contracting Party.

3. The term "returns" means the amounts yielded by an investment and includes in particular, though not exclusively, profit, interest, capital gains, royalties, fees, dividends and other legitimate income.

4. The term "territory" means,

(a) in respect of the Republic of Turkey, the land territory, internal waters, the territorial sea, and the airspace above them, as well as the maritime areas over which Turkey has sovereign rights or jurisdiction for the purposes of exploration, exploitation and preservation of natural resources, whether living or non-living, pursuant to international law.

(b) in respect of the People's Republic of China, the territory, including the land area, internal waters and the territorial sea and the air space above them, as well as any area beyond its territorial sea within which the People's Republic of China has sovereign rights of explorations and exploitations of resources of the seabed and its subsoil and superjacent water resources in accordance with Chinese law and international law.

Article 2. Promotion and Protection of Investments

1. Subject to its laws and regulations, each Contracting Party shall in its territory promote as far as possible investments by investors of the other Contracting Party.

2. Investments of investors of each Contracting Party shall at all times be accorded fair and equitable treatment in accordance with the principles of international law and shall enjoy full protection and security 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, enjoyment, or disposal of such investments.

3. "Fair and equitable treatment" requires that investors of one Contracting Party shall not be rejected to fairly judicial proceedings by the other Contracting Party or be treated with obvious discriminatory or arbitrary measures.

4. "Full protection and security" requires that Contracting Parties shall take reasonable and necessary police measures when performing the duty of guaranteeing investment protection and security.

5. A determination that there has been a breach of other Articles of this Agreement, or articles of other agreements, does not establish that there has been a breach of this Article.

Article 3. Treatment of Investments

1. Within the framework of the hosting Contracting Party's laws and regulations, each Contracting Party shall admit in its territory investments on a basis no less favourable than that accorded in like circumstances to investments of investors of any third State.

2. Each Contracting Party shall accord to investments, once established, and activities associated with such investments by the investors of the other Contracting Party treatment not less favourable than. that accorded to the investments and associated activities by its own investors in like circumstances.

3. With regard to either Contracting Party, Paragraph 2 of this Article does not apply to:

(a) any existing non-conforming measures maintained within its territory;

(b) the continuation of any such non-conforming measure;

(c) any amendment to any such non-conforming measure to the extent that the amendment does not increase the non-conformity of these measures.

The Contracting Parties will take appropriate steps in order to progressively remove the non-conforming measures.

4. Neither Contracting Party shall subject investments and activities associated with such investments by the investors of the other Contracting Party to treatment less favorable than that accorded to the investments and associated activities by the investors of any third State under like circumstances.

5. (a) The Provisions of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege which may be extended by the former Contracting Party by virtue of any international agreement or arrangement relating wholly or mainly to taxation.

(b) The National Treatment and Most-Favored-Nation Treatment provisions of this Article shall not apply to advantages accorded by a Contracting Party pursuant to its obligations as member of a customs, economic or monetary union, a common market or a free trade area.

(c) The Paragraph 4 of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of

the other Contracting Party the benefit of any treatment, preference or privilege by virtue of any arrangements for facilitating small scale frontier trade in border areas.

(d) Paragraphs 1 and 4 of this Article do not apply in respect of dispute settlement provisions laid down by this Agreement and by another similar international agreement to which one of the Contracting Parties is signatory.

6. The Contracting Parties shall within the framework of their national legislation give sympathetic consideration to applications for the entry and sojourn of persons of either Contracting Party who wish to enter the territory of the other Contracting Party in connection with the making and carrying through of an investment; the same shall apply to nationals of either Contracting Party who in connection with an investment wish to enter the territory of the other Contracting Party and sojourn there to take up employment.

Article 4. General Exceptions

1. Nothing in this Agreement shall be construed to prevent a Contracting Party from adopting, maintaining, or enforcing any non-discriminatory and necessary measures:

(a) designed and applied for the protection of human, animal or plant life or health, or the environment;

(b) related to the conservation of living or non-living exhaustible natural resources.

2. This Agreement shall not be construed so as to:

(a) require any Contracting Party to furnish or allow access to any information the disclosure of which will it determines to be contrary to its essential security interests.

(b) prevent a Contracting Party from adopting measures that it considers necessary for the purpose of protecting its essential security interests pursuant to its domestic law on a non-discriminatory basis.

(c) prevent host country from adopting any actions to perform the duty of maintaining international peace and security under Charter of the United Nations.

Article 5. Expropriation and Compensation

1. Investments shall not be expropriated, nationalized or subject, directly or indirectly, to measures of similar effects (hereinafter referred as expropriation) except for a public purpose, in a non-discriminatory manner, upon payment of prompt and effective compensation, and in accordance with domestic law and due process of law and in accordance with the general principles of treatment provided for in Article 3 of this Agreement.

2. The determination of whether a measure or a series of measures of one Contracting Party constitutes indirect expropriation in Paragraph 1 requires a case-by-case, fact-based inquiry that considers, among other factors:

(a) the economic influence of a measure or a series of measures, although the fact that a measure or a. series of measures of the Contracting Party has an adverse effect on the economic value of investments, standing alone, does not establish that an indirect expropriation has occurred;

(b) the extent to which the measure or the series of measures grant discrimination in scope or application over investors and associated investments of the other Contracting Party;

(c) the extent to which the measure or the series of measures interfere the obviously reasonable investment expectation of investors of the other Contracting Party;

(d) the character and purpose of a measure and a series of measures, whether it is adopted for the purpose of public interest in good faith and whether it is proportional to that purpose.

3. Except in rare circumstances, such as the measures adopted severely surpassing the necessity of maintaining corresponding reasonable public welfare, non-discriminatory legal measures adopted by one Contracting Party for the purpose of legitimate public welfare, such as public health, safety and environment, do not constitute indirect expropriation.

4. Compensation shail be equivalent to the market value of the expropriated investment before the expropriation was taken or became public knowledge. Compensation shall be paid without delay and be freely transferable as described in paragraph 2 Article 7.

5. In the event that payment of compensation is delayed, it shall carry an interest at a rate to be agreed upon by both parties

unless such rate is prescribed by law from the date of expropriation until the date of payment.

Article 6. Compensation for Losses

1. Investors of one Contracting Party, whose investments in the territory of the other Contracting Party suffer losses owing to war, armed clash, a state of emergency, insurrection or other similar events in the territory of the latter Contracting Party, shall be accorded by the other Contracting Party, as regards restitution, indemnification, compensation and other settlements, no less favorable treatment than that accorded to the investors of its own or any third State, whichever is more favorable to the investor concerned.

2. Investments by investors of one Contracting Party that, in any of the situations referred to in Paragraph 1 of this Article, suffer losses in the territory of the other Contracting Party resulting from requisitioning or destruction of an investment or a part thereof by the latter's armed forces or authorities, which was not caused in combat action or was not required by the necessity of situation, shall be accorded restitution or appropriate compensation.

Article 7. Repatriation and Transfer

1. Upon fulfillment of all tax obligations, each Contracting Party shall permit in good faith all transfers related to an investment to be made freely and without delay into and out of its territory. Such transfers include:

(a) returns,

(b) proceeds from the sale or liquidation of all or any part of an investment,

(c) compensation pursuant to Article 5 and Article 6,

(d) reimbursements and interest payments deriving from loans in connection with investments,

(e) salaries, wages and other remunerations received by the nationals of one Contracting Party who have obtained in the territory of the other Contracting Party the corresponding work permits related to an investment,

(f) payments arising from an investment dispute.

2. Transfers shall be made in the convertible currency in which the investment has been made or in any convertible currency at the rate of exchange in force at the date of transfer, unless otherwise agreed by the investor and the hosting Contracting Party.

3. Notwithstanding above articles of this Agreement, a Contracting Party may prevent a transfer through the equitable, non-discriminatory and good faith application of its national laws relating to:

(a) bankruptcy, insolvency or the protection of the rights of creditors;

(b) issuing, trading or dealing in securities, futures, options and other derivatives;

(c) suspected criminal or administrative offenses;

(d) reports of transfers of cash or other monetary instruments; or

(e) ensuring compliance with judicial or administrative proceedings.

4. Notwithstanding other provisions of this Agreement, each Contracting Party may, in accordance with its laws and regulations, adopt or maintain measures inconsistent with its obligations under this Article: (a) in the event of serious balance-of-payments and external financial difficulties or threat thereof; or (b) where, in exceptional circumstances, movements of capital cause, or threaten to cause, serious difficulties for macroeconomic managements, in particular monetary and exchange rate policies.

5. Measures referred to in paragraph 4 above: (a) shall be consistent with the Articles of the Agreement of the International Monetary Fund other than those the Contracting Parties made reservations; (b) shall not exceed those necessary to deal with the circumstances described in paragraph 4 above; (c) shall be temporary and shall be eliminated as soon as conditions permit; (d) shall be promptly notified to the other Contracting Party.

6. With regard to the Contracting Parties, the transfers referred to in this Article shall comply with relevant formalities stipulated by the Contracting Party's laws and regulations relating to exchange control.

These formalities;

(a) shall not be used as a way of avoiding the Contracting Party's commitments or obligations under this Agreement,

(b) shall in no case be more restrictive than these required at the time of entry into force of this Agreement.

The period required for the completion of transfer formalities shall commence on the day on which a written request with necessary supportive documentation is submitted to the foreign exchange authorities. The necessary authorizations should be granted in a period of one month but shall in no case exceed two months.

Article 8. Subrogation

1. If the investment of an investor of one Contracting Party is insured against non-commercial risks under a system established by law, any subrogation of the insurer, which stems from the terms of the insurance agreement between the investor and the insurer, shall be recognized by the other Contracting Party.

2. The insurer is entitled by virtue of subrogation to exercise the rights and enforce the claims of that investor and shall assume the obligations related to the investment. The subrogated rights or claims shall not exceed the original rights or claims of the investor.

Article 9. Settlement of Disputes between One Contracting Party and Investors of the other Contracting Party

1. Disputes between one of the Contracting Parties and an investor of the other Contracting Party, in connection with his investment, shall be notified in writing, including detailed information, by the investor to the recipient Contracting Party of the investment, for domestic administrative review procedures. As far as possible, the investor and the concerned Contracting Party shall endeavor to settle these disputes by consultations and negotiations in good faith.

2. If the dispute that an investor of one Contracting Party claiming that the other Contracting Party has breached an obligation under Article 2 through 8, cannot be settled through negotiations or administrative review procedures stipulated in paragraph (1) of this Article, within six (6) months following the date of the written notification mentioned in paragraph 1, the dispute can be submitted, as the investor may choose, to:

(a) the competent court of the Contracting Party in whose territory the investment has been made,

(b) the International Center for Settlement of Investment Disputes (ICSID) set up by the "Convention on Settlement of Investment Disputes Between States and Nationals of other States",

(c) an ad hoc court of arbitration laid down under the Arbitration Rules of Procedure of the United Nations Commission for International Trade Law (UNCITRAL).

3. Once the investor has submitted the dispute to the one of the dispute settlement procedures mentioned in paragraph 2 of this Article, the choice of one of these procedures is final.

4, Notwithstanding the provisions of paragraph 2 of this Article;

(a) only the disputes arising directly out of investment activities which have obtained necessary permission, if there is any permission requirement, in conformity with the relevant legislation of the hosting Contracting Party on foreign capital, and that effectively started shall be subject to the jurisdiction of the International Center for Settlement of Investment Disputes (ICSID) or any other international dispute settlement mechanism as agreed upon by the Contracting Parties;

(b) the disputes, related to the property and real rights upon the real estates are totally under the jurisdiction of the courts of the hosting Contracting Party and therefore shall not be submitted to jurisdiction of the International Center for Settlement of Investment Disputes (ICSID) or any other international dispute settlement mechanism.

5. The arbitration tribunal shall take its decisions in accordance with the provisions of this Agreement, the laws and regulations of the Contracting Party involved in the dispute on which territory the investment is made (including its rules on the conflict of law) and the relevant principles of international law as accepted by both Contracting Parties.

6. A dispute shall not be submitted to arbitration when more than five (5) years elapsed from the date that the investor first acquired knowledge or should reasonably have acquired knowledge of the events which gave rise to the dispute.

7. Unless the disputing parties agree otherwise, where an award affirms that a Contracting Party has breached its obligations under this Agreement, the tribunal may only award, separately or in combination:

(a) monetary damages and any applicable interest; or

(b) restitution of property, in which case the award may specify monetary damages and corresponding interest in lieu of restitution.

8. In principle, each disputing party shall bear the costs of its appointed arbitrator and of any legal representation in proceedings: The costs of the presiding arbitrator and of other expenses associated with the conduct of the arbitration shall be borne equally by the disputing parties. The Tribunal may award one disputing party to bear a higher proportion of the costs and give the explanation. If the Tribunal deems that the claim of the claimant or the objection of the respondent is frivolous, it may award the losing party to bear reasonable costs and attorney's fees of the prevailing party incurred in objecting or opposing the objection with a reasonable cause.

9. The arbitration awards shall be final and binding for all parties in dispute. Each Contracting Party commits itself to execute the award according to its national law.

Article 10. Settlement of Disputes between the Contracting Parties

1. The Contracting Parties shall seek in good faith and a spirit of cooperation a rapid and equitable solution to any dispute between them concerning the interpretation or application of this Agreement. In this regard, the Contracting Parties agree to engage in direct and meaningful negotiations to arrive at such solutions. If the Contracting Parties cannot reach an agreement within six (6) months after the beginning of disputes between themselves through the foregoing procedure, the disputes may be submitted, upon the request of either Contracting Party, to an arbitral tribunal of three members.

2. Within two (2) months of receipt of a request, each Contracting Party shall appoint an arbitrator. The two arbitrators shall select a third arbitrator as Chairman, who is a national of a third State. In the event either Contracting Party fails to appoint an arbitrator within the specified time, the other Contracting Party may request the President of the International Court of Justice to make the appointment.

3. If both arbitrators cannot reach an agreement about the choice of the Chairman within two (2) months after their appointment, the Chairman shall be appointed upon the request of either Contracting Party by the President of the International Court of Justice.

4. If, in the cases specified under paragraphs (2) and (3) of this Article, the President of the International Court of Justice is prevented from carrying out the said function or if he is a national of either Contracting Party, the appointment shall be made by the Vice-President, and if the Vice-President is prevented from carrying out the said function or if he is a national of either Contracting Party, the appointment shall be made: by the most senior member of the Court who is not a national of either Contracting Party.

5. The tribunal shall have three (3) months from the date of the selection of the Chairman to agree upon rules of procedure consistent with the other provisions of this Agreement. In the absence of such agreement, the tribunal shall request the President of the International Court Justice to designate rules of procedure, taking into account generally recognized rules of international arbitral procedure.

6. Unless otherwise agreed, all submissions shall be made and all hearings shall be completed within eight (8) months of the date of selection of the Chairman, and the tribunal shall render its decision within two (2) months after the date of the final submissions or the date of the closing of the hearings, whichever is later. The arbitral tribunal shall reach its decisions, which shall be final and binding, by a majority of votes.

7. Each Contracting Party shall bear the costs of its appointed arbitrator and of its representation in arbitral proceedings. The relevant costs of the Chairman and tribunal shall be borne in equal parts by the Contracting Parties.

8. A dispute shall not be submitted to an international arbitration tribunal under the provisions of this Article, if a dispute on the same matter has been brought before another international arbitration tribunal under the provisions of Article 9 and is still before the court.

Article 11. Scope of Application

1. This Agreement shall apply to investments in the territory of one Contracting Party, made in accordance with its national laws and regulations, by investors of the other Contracting Party, whether prior to, or after the entry into force of the present Agreement. However, this Agreement shall not apply to any disputes that have arisen before its entry into force.

2. This Agreement shall not apply to a corporation, firm or business associations incorporated or constituted under the law of a third country within the meaning of paragraph 2 (c) of Article 1 of this Agreement, if there is an investment promotion and protection agreement between the hosting Contracting Party and that third country.

Article 12. Entry Into Force

1. The Contracting Parties shall notify each other in writing through diplomatic channel the fulfillment of their domestic legal procedures in relation to the approval and entry into force of this Agreement. This Agreement shall enter into force on the thirtieth day upon the receipt of the latter notification. It shall remain in force for a period of ten (10) years and shall continue in force unless terminated in accordance with paragraph 2 of this Article.

2. Either Contracting Party may, by giving one year's written notice to the other Contracting Party, terminate this Agreement at the end of the initial ten-year period or at any time thereafter.

3. This Agreement may be amended by mutual written consent of the Contracting Parties at any time. The amendments shall enter into force in accordance with the same legal procedure prescribed under the first paragraph of the present Article.

4. With respect to investments made or acquired prior to the date of termination of this Agreement and to which this Agreement otherwise applies, the provisions of all of the other Articles of this Agreement shall thereafter continue to be effective for a further period of ten (10) years from such date of termination.

5. On the date of entry into force of this Agreement, the Agreement between the Republic of Turkey and the People's Republic of China on the Reciprocal Promotion and Protection of Investments, signed on 13th of November, 1990 in Beijing, (hereinafter referred to as "Previous Agreement"), shall be terminated. For any dispute which arose before the date of the entry into force of this Agreement, provisions of the Previous Agreement shall apply. Any dispute which arises after the date of the entry into force of this Agreement shall be settled in accordance with the provisions of this Agreement.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Agreement.

DONE in duplicate at Beijing on July 29, 2015 in the Turkish, Chinese and English languages, all texts being equally authentic.

In case of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

NIHAT ZEYBEKCI

MINISTER OF ECONOMY

FOR THE GOVERNMENT OF THE REPUBLIC OF TURKEY

GAO HUCHENG

MINISTER OF COMMERCE

Protocol

On signing the Agreement between the Government of the Republic of Turkey and the Government of the People's Republic of China Concerning the Reciprocal Promotion and Protection of Investments, the undersigned representatives, being duly authorized, have agreed on the following provision which shall constitute an integral part of the said Agreement.

Ad Article 9

In the implementation of Article 64 of the "Convention on the Settlement of Investment Disputes between States and Nationals of other States", the following provision shall apply:

The Republic of Turkey shall not accept the referral of any disputes arising between the Republic of Turkey and any other Contracting State concerning the interpretation or application of "Convention on the Settlement of Investment Disputes between States and Nationals of other States", which is not settled by negotiation, to the International Court of Justice.

Done in Beijing on July 29, 2015, in the Turkish, Chinese and English languages, all texts being equally authentic.

In case of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF TURKEY

NIHAT ZEYBEKCI

MINISTER OF ECONOMY

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

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