

# **Agreement on promotion and mutual protection of investments between the Government of the Republic of Azerbaijan and the Government of the Kingdom of Saudi Arabia**

The Government of the Republic of Azerbaijan and the Government of the Kingdom of Saudi Arabia (hereinafter - the Contracting Parties),

Desiring to expand economic cooperation between the two countries, both Contracting Parties agree to promote private business initiatives and enhance the well-being of both nations, with the intention of creating favorable conditions for investors from both countries to invest in the territory of the other state :

## **Article 1.**

For the purposes of this Agreement:

1. The term "investment" means any type of property which an investor of a Contracting Party may own or dispose of in the territory of the other Contracting Party in accordance with its law and is not limited to:

- a) Movable and immovable property, as well as mortgage, rent, surety, usufruct and other similar property rights;
- b) stocks, funds, debt obligations of companies, other rights and interests of companies, securities issued by one of the Contracting Parties or its investor;
- c) monetary claims for loans or claims against any activity that has an economic value in connection with the investment;
- d) intellectual property rights, including copyright, patents, industrial design documents, know-how, trademarks, business and trade secrets, trade names and goodwill, but not limited to the above;
- e) any right established by law or contract signed by the state or any license, permit or privilege granted in accordance with the law;

Any change in the investment or reinvestment of the property shall not affect its classification as an investment, provided that this change does not contradict the legislation of the Contracting Party in whose territory the investment is made.

2. The term "income" refers to the amounts earned as a result of an investment and specifically refers to, but is not limited to, profits, dividends, royalties, capital gains or other similar duties and payments.

3. The term "investor" means:

a) in relation to the Republic of Azerbaijan:

- I. any person who is a citizen of Azerbaijan in accordance with the laws of Azerbaijan; or
- II. Any legal entity established in accordance with the laws and regulations of the Republic of Azerbaijan and located in its territory, such as a company, corporation, firm, business association, an institution of the other Party;

b) In relation to the Kingdom of Saudi Arabia:

- I. Individuals who have the right to be citizens of the Kingdom of Saudi Arabia in accordance with the laws of the Kingdom of Saudi Arabia;
- II. Corporations, enterprises, cooperatives, companies, partner companies, offices, organizations, foundations, departments, business associations and other similar institutions, under the laws of the Kingdom of Saudi Arabia;
- III. The Government of the Kingdom of Saudi Arabia and the Saudi Arabian Monetary Agency, state funds and other similar

governmental entities existing in Saudi Arabia including financial institutions and its competent authorities.

4. The term "territory" means:

a) in relation to the Republic of Azerbaijan: the territory of the Republic of Azerbaijan, including the relevant sector of the Caspian Sea to which the Republic of Azerbaijan exercises its sovereign right and jurisdiction in accordance with international law and national legislation.

b) In relation to the Kingdom of Saudi Arabia: the land border, including maritime and underwater areas in which the Kingdom of Saudi Arabia has sovereignty under international law and exercises sovereign rights or jurisdiction.

## **Article 2.**

(1) Each Contracting Party shall, where possible, encourage the investments of investors of the other Party and, in accordance with its legislation, allow such investments to be placed in the country. In all cases, it shall grant a fair and equitable treatment to those investments.

(2) The investments of each Contracting Party shall be provided full protection security in the territory of the other Party. Under no circumstances shall one Contracting Party impose coercive or discriminatory measures which may weaken the management, protection or use, or use, or disposition of investments of investors of the other Party in whose territory it is located.

## **Article 3.**

(1) Each Contracting Party shall apply to the investor of the other Contracting Party a regime not less favorable than the treatment and investment income of a third state in respect of investments and investment income already accepted by investors.

(2) In accordance with its laws and regulations, each Contracting Party shall apply a regime not less favorable than that of the other Contracting Party in respect of investments and investment returns already received by investors of the other Contracting Party.

(3) Each Contracting Party shall manage, protect, use or benefit from, or dispose of, its investments with investors from the other Contracting Party, or from bank transfers, compensations or investments related to any related activity in its territory. applies a more favorable regime for its own investors or third-country investors regarding the means of asserting their rights.

(4) The provisions of paragraphs (1), (2) and (3) of this Article shall not apply to privileges granted by a Contracting Party to a third State investor by agreement of membership, association, customs union, economic union, common market or free trade zone.

(5) The provisions of this Article shall not apply to tax matters.

## **Article 4.**

(1) Investments of investors of either Contracting Party shall not be confiscated or nationalized, nor shall any other action taken by the other Contracting Party in connection with the confiscation or nationalization take place, unless, as an exception, it serves the public interest of that Contracting Party. then, provided that the action is not discriminatory and in accordance with the general laws in force in its territory, it may be carried out with immediate, reasonable and effective compensation.

Such compensation shall be equal to the value of the investment expropriated immediately prior to the date on which the notice of the actual confiscation or nationalization of the investment or any action to be taken has been announced or there is such a threat. Compensation shall be paid immediately, unless there is an unjustified delay, and if it is delayed, it shall be paid, including interest accrued on the basis of the interest rates available in the market before the due date. This compensation must be able to be converted into cash and transferred abroad without hindrance. Appropriate action will be taken during or before confiscation, nationalization or similar action to determine and pay such compensation.

Any expropriation or nationalization or any other similar action, as well as the legality of the amount of compensation, should be examined in accordance with legal regulations and laws.

(2) If the investments of the investors of either Contracting Party in the territory of the other Contracting Party suffer losses

due to war, armed conflict or revolution or general emergency or uprising in that territory, in respect of these investors, the last Contracting Party shall apply a regime not less favorable than that applied to its investors. Such payments will be made by free transfer.

(3) The principle of the most favorable treatment for the investors of each Contracting Party shall be applied in the territory of the other Contracting Party, in respect of matters referred to in the provisions of this Article.

## **Article 5.**

If a Contracting Party or any related entity pays money to an investor operating in the territory of the other Contracting Party in exchange for a guarantee for any investment, the latter Party shall acknowledge and recognize the transfer of any right or claim submitted by this investor or any subsidiary to that Party to the first-named Contracting Party or its affiliated entity.

## **Article 6.**

Each Contracting Party guarantees to investors of the other Contracting Party the free transfer of payments related to investments and investment income received in the territory of the other Contracting Party, in particular:

- a) capital and additional amounts related to the maintenance or increase of investments;
- b) benefits;
- c) amounts paid to repay loans;
- d) liquidation of investments, or proceeds from the sale of all or part of them;
- e) Compensation provided for in the text of Article 4.

Each Contracting Party to investors of the other Contracting Party, investments and investment income earned in the other Contracting Party in connection with the payments, in particular, free transfer of the following guarantees:

## **Article 7.**

(1) The transfers referred to in Articles 4, 5 or 6 shall be made without delay and at the market exchange rate applicable on the day of the transfer.

(2) If there is no base rate, the transfer rate shall be taken in accordance with the base rates applied by the International Monetary Fund to the currencies and the transfer shall be made to an account entitling the investor to withdraw it in the respective currencies.

## **Article 8.**

If, in addition to this Agreement, current or future obligations between the two Contracting Parties in accordance with the laws of either Contracting Party or international law provide for a more favorable treatment regime for investors in that State, in general or in particular, than those provided for in this Agreement, such rules shall prevail over this Agreement, in as much as they are more favorable.

## **Article 9.**

This Agreement shall also apply to investments made by investors of either Contracting Party in the territory of the other Contracting Party prior to its entry into force in accordance with the legislation of the latter.

## **Article 10.**

(1) Any disagreement between the Contracting Parties concerning the interpretation or implementation of this Agreement shall be settled amicably by the Governments of both Contracting Parties to the best of their ability.

(2) If it is not possible to settle the dispute within six months, the case shall be submitted to arbitration at the request of one of the Contracting Parties.

(3) To this end, a special arbitral tribunal shall be established as follows: Each Contracting Party shall appoint one member,

the two members shall agree that one national of a third State shall preside over them, and the Governments of the Contracting Parties shall appoint him. The two members shall be appointed within two months after one of the Contracting Parties has informed the arbitral tribunal of its intention to settle the dispute with the other Contracting Party, and the chairman shall be appointed within three months.

(4) In the event of non-compliance with the time limits referred to in paragraph 3 and in the absence of another agreement, each Contracting Party shall be permitted to invite the President of the International Court of Justice to make the necessary appointments. If the President of this Court is a national of one of the Contracting Parties or is unable to do so for certain reasons, his deputy shall perform that function. If the Vice-President is also a national of one of the Contracting Parties or is unable to perform the above function for certain reasons, a subsequent member of the International Court of Justice and a non-national of either Contracting Party shall make the required appointments.

(5) The arbitral tribunal shall make its decisions by a majority of votes and its decisions shall be final and binding. Each Contracting Party shall pay the expenses of the member representing it and the costs of the arbitral proceedings. Expenses related to the chairman and other matters shall be paid equally by both parties. The arbitral tribunal may provide another cost system. The Arbitration Court shall determine its own procedures in respect of all other matters.

## **Article 11.**

(1) Disputes between a Contracting Party and an investor from the other Party relating to investments in the territory of that Party shall be settled amicably as far as possible.

(2) If the dispute cannot be settled by the means referred to in paragraph 1 of this Article within six months from the date proposed, the case shall be referred to the appropriate court of the Contracting Party in whose territory the investment is made, or to the Arbitration in accordance with the Convention of 18 March 1965 on the Settlement of Investment Disputes between States and Citizens of Other States, at the request of the investor.

(3) If the dispute has been referred to the relevant court of the Contracting Party in accordance with paragraph 2, the investor may not refer the case to International Arbitration in parallel. If the case is heard by the Arbitral Tribunal, its decision shall be binding and shall not be subject to appeal or dispute may not be settled after the Arbitration in accordance with the provisions of the Convention and the decision of the Arbitration shall be enforced in accordance with national law.

## **Article 12.**

(1) This Agreement shall be ratified and the exchange of instruments of ratification shall take place as soon as possible.

(2) This Agreement shall enter into force thirty days after the date of the exchange of the instruments of ratification and shall remain in force for a period of ten years. Unless either Party notifies the other Contracting Party in writing of its intention to terminate the Agreement twelve months before the expiration of this period, it shall be extended indefinitely. Upon the expiration of a ten-year period, either Contracting Party may terminate this Agreement by giving written notice of termination. The Agreement shall expire twelve months after the date of receipt of such notification.

(3) Articles 1-11 of this Agreement relating to investments made prior to the termination of this Agreement shall remain in force for a period of twenty years after its termination.

This Agreement is signed in Riyadh on March 9, 2005 in two originals, each in the Azerbaijani, Arabic and English languages, in accordance with the Hijri calendar, 28 Muharram 1426, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

On behalf of the government of the Republic of Azerbaijan

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On behalf of the government of the Kingdom of Saudi Arabia

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