

# **AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF BELARUS BETWEEN THE GOVERNMENT OF THE REPUBLIC OF BELARUS AND THE GOVERNMENT OF THE REPUBLIC OF UZBEKISTAN ON RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS**

The Government of the Republic of Belarus and the Government of the Republic of Republic of Uzbekistan, hereinafter referred to as the Contracting Parties,

Desiring to deepen economic cooperation for mutual benefit of both states,

Desiring to create and support favorable conditions for investments of investors from the state of one Contracting Party in the territory of the State of the other of the State of the other Contracting Party,

Recognizing that the mutual promotion and protection of investments on the basis of this Agreement will promote the development of business initiatives, the inflow of private capital and economic development in both States,

Considering the importance of providing an effective mechanism of investment protection in accordance with the national  
Considering the importance of ensuring an effective mechanism for the protection of investments in accordance with the national legislation of the states, as well as through the norms of international law,

Have agreed on the following:

## **Article 1. Definitions**

For the purposes of this Agreement:

1. The term "investment" means all types of property invested by an investor of the State of one Contracting Party in connection with economic activities for the purpose of profit in the territory of the State of the other Contracting Party in accordance with the legislation of the State of the other Contracting Party, and includes in particular

- a) movable and immovable property and other property rights;
- b) shares, stocks or other forms of participation in commercial organizations, as well as bonds;
- c) rights of claim for monetary funds or any fulfillment of obligations under an agreement of economic value and signs of investment;
- d) intellectual and industrial property rights, including copyrights, patents for inventions, trademarks, industrial designs, designation of origin and technical processes, trade secrets, trade names, know-how and goodwill and other similar rights;
- e) Concessions granted under the laws of the state of the Contracting Party in whose territory the investment is made, or by the competent authority under a treaty, including rights of exploration, development, extraction or exploitation of natural resources;
- e) other investments in other forms recognized as investments by the legislation of the state of the Contracting Party in whose territory the investment is made.

In order to qualify as an investment under this Agreement, an asset must have the attributes of an investment, such as:

An obligation to invest capital or other resources; an expectation of income or profit;

the assumption of risk.

Any change in the form in which an investment or reinvestment of property is made shall not affect its character as an

investment, provided that such a change is not contrary to the laws of the State of the Contracting Party concerned.

For the purposes of this Agreement, the term "investment" shall not include the following assets:

- a) Any interest on debt securities issued by the Government or by a State-owned or State-controlled enterprise, or loans to the Government or to a State-owned or State-controlled enterprise;
- b) any pre-operating expenses in connection with the admission, establishment, acquisition or expansion of an enterprise incurred prior to the commencement of business operations of the enterprise in the host State, unless otherwise provided by an agreement between the investor and one of the Contracting Parties;
- c) monetary claim rights which arise solely from commercial transactions for the sale of goods or services;
- d) rights of claim that arise solely from the granting of credit in connection with any commercial transaction.

The business transactions referred to in subparagraph (b) of part four of paragraph 1 of this article shall be understood to mean that the business performs, without exception, all of the following acts:

- a) assumes long-term capital commitments in the host State;
- b) assumes the entrepreneurial risk;
- c) operates in accordance with the national law of the host State.

2. The term "income" means any funds derived from an investment in the State of the Contracting Party, including profits, interest, dividends, royalties, licenses and commissions, payments for technical assistance, maintenance and other forms of remuneration.

3. The term "investor" means any natural or legal person of the state of one Contracting Party making investments in the territory of the state of the other Contracting Party:

- a) a natural person, a national of the State of one of the Contracting Parties in accordance with its law;
- b) a legal person of the Contracting Parties

in respect of either one, any legal entity created or constituted or recognized as such under the laws of its state.

4. The term "territory" means territory under the sovereignty of the State of a Contracting Party in respect of which that State exercises, in accordance with its national law and international law, sovereign rights or jurisdiction.

5. The term "legislation of the State of the Contracting Party" means laws and other normative legal acts constituting the law of the Republic of Belarus, or laws and other normative legal acts constituting the law of the Republic of Uzbekistan.

## **Article 2. Applicability of this Agreement**

The provisions of this Agreement shall apply to all investments made by investors of the State of one Contracting Party in the territory of the State of the other Contracting Party in accordance with its law before and after the entry into force of this Agreement, but shall not apply to any dispute regarding investments, acts or facts occurring before the entry into force of this Agreement, or to any claims settled before the entry into force of this Agreement.

## **Article 3. Mutual Promotion and Protection of Investments**

1. Each Contracting Party shall encourage and create favourable conditions for investors of the State of the other Contracting Party to make investments in the territory of its State and shall allow such investments in accordance with the laws of its State.

2. Investments of investors of the state of each Contracting Party shall at all times enjoy fair and equitable treatment and full and appropriate legal protection in the territory of the state of the other Contracting Party. Each of the Contracting Parties, in the territory of its State undertakes not to hinder by unreasonable or discriminatory measures the management, maintenance, use or disposal of investments of investors of the State of the other Contracting Party.

Each Contracting Party undertakes to comply with any obligation assumed with respect to investments of investors of the State of the other Contracting Party.

## **Article 4. National Treatment and Most-Favoured-Nation Treatment**

1. Each Contracting Party shall accord in the territory of its State in respect of investments and returns of investors of the State of the other Contracting Party treatment no less favourable than that which it accords to investments and returns of investors of its State or to investments and returns of investors of any third State, whichever, in the opinion of the investor, is most favourable.

2. Each Contracting Party undertakes to accord in the territory of its State to investors of the State of the other Contracting Party as regards the management, maintenance, use or disposal of their investments treatment no less favourable than that which it accords to investors of its State or to investors of any third State, whichever in the opinion of the investor is most favourable.

3. The provisions of paragraphs 1 and 2 of this Article shall not be so construed as to oblige one Contracting Party to extend to investors of the State of the other Contracting Party and their investments the benefit of any treatment, preferences or privileges which may be accorded by the first Contracting Party in effect

a) a free trade agreement, customs union, common market, economic or monetary union or other similar international agreement, including other forms of regional economic cooperation to which the first Contracting Party is or may become a member in the future;

b) a double taxation agreement or other international agreement relating wholly or mainly to taxation.

4. The provisions of this Agreement relating to most-favoured-nation treatment shall not apply to:

a) to the settlement of disputes between one Contracting Party and investors of the State of the other Contracting Party;

b) with regard to the privatization of land and the acquisition of title to privatized land.

## **Article 5. Expropriation**

1. Investments of investors of the State of one Contracting Party in the territory of the State of the other Contracting Party shall not be subject to nationalization, expropriation or other measures having effect directly or indirectly equivalent to nationalization or expropriation ("expropriation") except in the public interest, on a nondiscriminatory basis, in accordance with a legally established procedure and ensuring timely, adequate and effective compensation.

2. Compensation shall correspond to the market value of the expropriated investment, calculated at the date when the actual implementation or the impending expropriation has become officially known. Compensation shall be paid without delay in a freely convertible currency and shall be transferred from the territory of the State of one Contracting Party to the territory of the State of the other Contracting Party in accordance with Article 8 of this Agreement. From the date of expropriation until the date of payment of compensation the amount of compensation shall bear interest at a commercial rate established on a market basis, but not less than the London Interbank Offered Rate (LIBOR) on six-month dollar credits.

3.

3. If either Contracting Party expropriates property or any part thereof from a commercial organization created or organized under the laws of its state in which investors of the state of the other Contracting Party have made investments, including equity participations, investors of the state of the other Contracting Party shall be guaranteed application of the provisions of this Article to the extent necessary to ensure timely, adequate and effective compensation in respect of their investments.

4. The investor whose investment is to be expropriated shall be entitled to prompt review of his case and of the valuation of his investment along the lines set out in this Article by a judicial or other authority of the State of the Contracting Party making the expropriation.

## **Article 6. Compensation for Losses**

1. Investors of the State of one Contracting Party whose investments in the territory of the State of the other Contracting Party suffer losses owing to war, armed conflict, state of national emergency, revolution, insurrection or rebellion in the territory of the State of the other Contracting Party shall be accorded by the latter Contracting Party treatment not less favourable than that accorded to the latter Contracting Party in respect of recovery, indemnification, compensation or other settlement

2. Without prejudice to paragraph 1 of this Article, investors of the State of one Contracting Party who, in any of the situations referred to in that paragraph, suffer losses in the territory of the State of the other Contracting Party because of:

a) the requisition of their investments, in whole or in part, by the forces or authorities of the latter;

b) The destruction of all or part of their investment by forces or authorities of the latter, provided that it was not due to a necessity of circumstance,

the latter Contracting Party shall provide reparation or compensation, which shall in any case be timely, adequate and effective, and compensation from the time of requisition or destruction until the date of actual payment shall be in accordance with paragraphs 2 to 4 of Article 5 of this Agreement.

## **Article 7. General Exceptions**

1. Nothing in this Agreement shall restrict a Contracting Party from applying the following non-discriminatory legal measures:

- a) aimed at the protection of human life and health, the protection of the environment, and historical and cultural values;
- b) related to the conservation of fossil natural resources.

2. Nothing in this Agreement shall be construed to:

- a) requiring any Contracting Party to provide access to any information the disclosure of which it considers contrary to its essential security interests;
- b) preventing any Contracting Party from taking any action which it considers necessary to protect its security interests and essential economic interests:

1) relating to the trade in arms, ammunition, and other goods, materials, services, and technology carried on directly or indirectly for the purpose of supplying a military or other security establishment;

2) In time of war or other emergency in international relations; or

3) with respect to the implementation of national policies or international treaties concerning the nonproliferation of nuclear weapons or other nuclear explosive devices; or

4) In relation to illegal activities.

## **Article 8. Free Transfer**

1. Each Contracting Party shall guarantee to investors of the State of the other Contracting Party, upon payment by them of appropriate taxes and other compulsory payments as prescribed by the legislation of the State of the first Contracting Party, the free transfer abroad of payments related to their investments, in particular, but not exclusively

- a) income as defined in Article 1, paragraph 2 of this Agreement;
- b) the principal and additional contributions necessary to maintain or develop the investment;
- c) funds paid in repayment of loans and credits recognized by both Contracting Parties as investments, as well as interest accrued
- d) funds received in connection with the partial or total liquidation or sale of investments;
- e) the compensation provided for in Articles 5 and 6 of this Agreement;
- f) the wages and other remuneration of natural persons recruited from abroad to perform work or provide services in connection with the investment in accordance with the laws of the state of the Contracting Party in whose territory the investment was made
- g) income in the form of interest and (or) discount, dividends on purchased securities, as well as from their alienation and (or) their redemption.

2. Transfers of payments under this Agreement shall be made without delay in freely convertible currency at the rate of exchange applicable on the date of transfer and in accordance with the laws of the State of the Contracting Party in whose territory the investment was made.

## **Article 9. Subrogation**

Where either Contracting Party or its authorized organization makes a payment under a guarantee or insurance contract provided in respect of an investment of an investor in the territory of the State of the other Contracting Party, the latter Contracting Party shall recognize the transfer of the right or claim of such investor to the first Contracting Party or its authorized organization and the right of the first Contracting Party or its authorized organization to enforce the rights and claims in principle

## **Article 10. Disputes between One Contracting Party and an Investor of the State of the other Contracting Party**

1. A dispute directly connected with an investment between one Contracting Party and an investor of the State of the other Contracting Party shall be settled amicably between the parties to the dispute by consultation and negotiation.

2. If the dispute cannot be resolved by consultation and negotiation within six months of the written request for settlement by either party, the investor, subject to the procedure provided for in paragraph 5 of this article, may refer the dispute to:

a) the competent courts of the State of the Contracting Party in whose territory the investment has been made; or

b) the International Centre for the Settlement of Investment Disputes (ICSID) established by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, opened for signature at Washington on March 18, 1965, if the States of both Contracting Parties have acceded to that Convention; or

c) an "ad-hoc" arbitral tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL); or

d) Any other previously agreed adhoc international arbitral tribunal.

3. At the request of any party to the dispute, arbitration under this article shall be held in the territory of a State Party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention), opened for signature on 10 June 1958 in New York.

4. If the investor has submitted the dispute to international arbitration, the choice of one of the three arbitral tribunals referred to in paragraph 2 of this Article shall be final.

5. A dispute may be submitted to international arbitration ninety (90) days after the date of receipt by the Contracting Party which is a party to the dispute of written notification of its intention to do so. The notice of intent to submit to international arbitration shall state:

a) the name and address of the claimant and, if the claim is filed on behalf of an entity, the name, address and place of incorporation of the entity;

b) the provisions of this Agreement which, in the opinion of the investor, have been violated;

c) the legal and factual basis for each claim; and

d) the claim (subject matter of the claim), including the amount of any damages claimed or approximate damages.

6. A dispute may not be submitted to arbitration if more than 5 (five) years have passed since the date when the investor first learned or should have first learned of the events which led to the dispute.

7. If the provisions of this Agreement conflict with the rules of arbitration, the provisions of this Agreement shall prevail.

8. The judgment of the tribunal shall be final and binding on both parties to the dispute and shall be enforceable in accordance with the procedural law of the State of the Contracting Party in whose territory the judgment is enforced.

## **Article 11. Disputes between Contracting Parties**

1. Disputes between Contracting Parties concerning the interpretation and application of this Agreement should, as far as possible, be resolved by negotiation.

2. If the dispute cannot be settled in the above-mentioned manner within six months from the date of the request of either Contracting Party for such negotiations, the dispute shall, at the request of either Contracting Party, be submitted to arbitration.

3. The arbitral tribunal shall be constituted on a case-by-case basis as follows. Within two months after receipt of the

request for arbitration, each Contracting Party shall appoint one member of the tribunal. These two members of the tribunal shall designate a national of a third State, who, with the mutual consent of the Contracting Parties, shall be appointed president of the tribunal. The president shall be appointed within four months of the appointment of the other two members.

4. If the necessary appointments have not been made within the periods specified in paragraph 3 of this Article and unless the Contracting Parties have agreed otherwise, a request for the necessary appointments may be addressed to the President of the International Court of Justice. If the President of the International Court of Justice is a national of a state of one of the Contracting Parties or if he is otherwise unable to carry out the above action, the request for the necessary appointments shall be addressed to the next most senior member of the International Court of Justice who is not a national of a state of either Contracting Party and is able to carry out the above action.

5. The arbitral tribunal shall take its decisions by majority vote. The decisions of the tribunal shall be final and binding on both Contracting Parties. Each of the Contracting Parties shall bear the expenses of a member of the tribunal appointed by it and of its representatives at the sessions of the tribunal. The expenses of the President, as well as other expenses, shall be shared equally between the Contracting Parties. The tribunal may also decide otherwise in respect of costs. For all other matters the arbitral tribunal shall determine its own rules of procedure. These rules shall not, however, be inconsistent with the provisions of this Agreement.

## **Article 12. Application of other Rules**

1. If the provisions of the legislation of the State of one Contracting Party or obligations under international law now existing or hereafter established between Contracting Parties in addition to this Agreement contain general or special rules under which investments of investors of the State of the other Contracting Party are accorded more favourable treatment than that provided for in this Agreement, such rules shall prevail.

2. The provisions of paragraph 1 of this Article shall not apply to the obligations of either Contracting Party under international law on the settlement of disputes.

## **Article 13. Consultations**

If necessary, the representatives of the Contracting Parties shall consult on any matter affecting the implementation of this Agreement. These consultations shall be held on the proposal of one of the Contracting Parties at a place and time agreed through diplomatic channels.

## **Article 14. Entry Into Force, Duration and Termination of this Agreement**

1. This Agreement shall enter into force on the thirtieth day after the date of receipt, through diplomatic channels, of the last written notification that each of the Contracting Parties has completed the domestic procedures necessary for its entry into force.

2. This Agreement is concluded for a period of ten years. It shall be automatically extended for successive ten-year periods unless either Contracting Party gives notice in writing through diplomatic channels at least twelve months before the expiration of the current period of its intention to terminate this Agreement.

3. This Agreement may be amended or supplemented by written agreement between the Contracting Parties. The same procedure as required for the entry into force of this Agreement shall apply to the entry into force of any such amendments or additions.

4. In respect of investments made before the termination of this Agreement, the provisions of Articles 1 to 12 shall remain in force for a period of five years from the date of termination of this Agreement.

In witness whereof the representatives duly authorized thereto have signed this Agreement.

Done in Minsk on August 1, 2019, in duplicate, each in the Russian and Uzbek languages, all texts being equally authentic.

In the event of discrepancies in the interpretation of the provisions of this Agreement, the text in the Russian language will be used.

For the Government of the Republic of Belarus

For the Government of the Republic of Uzbekistan