

AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE REPUBLIC OF CYPRUS FOR THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the People's Republic of China and the Government of the Republic of Cyprus (hereinafter referred to as "the Contracting Parties"),

Intending to create favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting party ;

Recognizing that the reciprocal encouragement, promotion, and protection of such investments will be conducive to stimulating business initiative of the investors and will increase prosperity in both States,

Desiring to intensify the cooperation of both States on the basis of equality and mutual benefits;

Have agreed as follows:

Article 1 DEFINITIONS

For the purpose of this Agreement,

1. The term "investment" means every kind of asset invested by investors of one Contracting Party in accordance with the laws and regulations of the other Contracting Party in the territory of the latter, and in particular, though not exclusively, includes:

- (a) movable and immovable property as well as any property rights, such as mortgages and pledges;
- (b) shares, stock and any other kind of participation in companies;
- (c) claims to money or to any other performance having an economic value ;
- (d) copyrights, industrial property, know-how and, technological processes; and
- (e) concessions conferred by law, including concessions to search for or exploit natural resources.

A possible change in the form in which the investment have been made does not affect their character as investments, provided that such a change does not contravene the laws and regulations of the Contracting Party in the territory of which the investment were made.

2. The term "investor" means:

With regard to the People's Republic of China:

(a) natural persons who have nationality of the People's Republic of China in accordance with its laws;

(b) companies, associations, partnerships or organizations, with or without legal personality incorporated and constituted under the laws and regulations of the People's Republic of China having their seats in the People's Republic of China.

With regard to the Republic of Cyprus:

(a) natural persons who have nationality of the Republic of Cyprus in accordance with its laws;

(b) legal persons constituted or incorporated in compliance with the law of the Republic of Cyprus who, in compliance with this Agreement are making an investment in the territory of the other Contracting Party.

3. The term "return" means the amounts yielded from investments such as profits, dividends, interests, capital gains, royalties and fees;

4. The term "territory" means:

With respect to the People's Republic of China:

The territory including the territorial sea and air space above it, as well as any area beyond its territorial sea within which China has sovereign rights of exploration of resources of the seabed and its sub-soil and super-adjacent water resources in accordance with Chinese law and international law.

With respect to the Republic of Cyprus:

The territory including the territorial sea, as well as the continental shelf and the exclusive economic zone of the Republic of Cyprus, over which the Republic of Cyprus has or may have jurisdiction and/or sovereign rights pursuant to international law.

Article 2 PROMOTION OF INVESTMENTS

1. Each Contracting Party shall promote economic cooperation and encourage investors of the other Contracting Party to make investments in its territory and admit such investments in accordance with its laws and regulations.

2. Each Contracting Party shall grant assistance in and provide facilities for obtaining visa and working permit to nationals of the other Contracting Party in connection with activities associated with such investments.

Article 3 TREATMENT OF INVESTMENTS

1. Investments and activities associated with investments of investors of either Contracting party shall all the time be accorded fair and equitable treatment in the territory of the other Contracting Party.

2. Neither Contracting Party shall take any unreasonable or discriminatory measures against the management, maintenance, use, enjoyment, expansion and disposal of the investments by the investors of the other Contracting Party.

3. Each Contracting Party shall accord to investments 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 or by investor of any third state, whichever is more favourable to the investor concerned.

4. The provisions of Paragraph 3 of the 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:

- (a) any existing or future economic union, monetary union, or any other regional economic integration organization;
- (b) any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation.

Article 4 EXPROPRIATION

1. Neither Contracting Party shall expropriate, nationalize or take similar measures (hereinafter referred to as "expropriation") against the investments of investors of the other Contracting Party in its territory, unless the following conditions are met:

- (a) for the public interests;
- (b) under domestic legal procedure;
- (c) without discrimination;
- (d) against fair compensation.

2. The compensation mentioned in Paragraph 1 (d) of this Article shall be equivalent to the value of the expropriated investments immediately before the expropriation is proclaimed, be convertible and freely transferable. The compensation shall be paid without unreasonable delay. The amount of compensation shall carry interest from the date of expropriation until the date of payment, corresponding to the interest rate applied by the Contracting Party accepting the investment to the currency in which the investment was originally made.

Article 5 COMPENSATION FOR LOSSES

Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war, a state of national emergency, insurrection, riot or other similar events, shall be accorded by the latter Contracting Party, if it takes relevant measures, treatment no less favourable than that accorded to its own investors or to investors of a third State, whichever is more favourable to the investor concerned.

Article 6 REPATRIATION OF INVESTMENTS AND RETURNS

1. Each Contracting Party shall guarantee to the investors of the other Contracting Party the unrestricted transfer of their investments and returns held in the territory of the former Contracting Party, including:

- (a) capital and additional amounts to maintain or increase the investment;
- (b) profits, dividends, interests and other legitimate income;

- (c) proceeds obtained from the total or partial or liquidation of investments;
- (d) payments pursuant to a loan agreement in connection with an investment;
- (e) royalties in Paragraph 1, (d) of Article 1;
- (f) payments of technical assistance or technical service fees, management fee;
- (g) payments in connection with projects on contract;
- (h) unspent earnings of nationals of the other Contracting Party who work in connection with an investment in the territory of the former Contracting Party;
- (i) compensation as provided in the Article 4 of this Agreement.

2. The transfer mentioned above shall be effected without delay, in a freely convertible currency at the prevailing exchange rate of the Contracting Party accepting the investment on the date of transfer. .

Article 7 SUBROGATION

If one Contracting Party or its Agency makes a payment to an investor under an indemnity, guarantee or contract of insurance against non-commercial risks given in respect of an investment made by any of its investors in the territory of the other Contracting Party, the latter Contracting Party shall recognize the assignment of any the right or claim of such investor to the former Contracting Party or its Agency and the right of the former Contracting Party or its Agency to exercise, by virtue of subrogation, any such right and claim to the same extent as its predecessor in title. This subrogation will make it possible for the former Contracting Party or its designated Agency to be the direct beneficiary of any payment for indemnification or other compensation to which the investor could be entitled.

Article 8 SETTLEMENT OF DISPUTES BETWEEN CONTRACTING PARTIES

1. Any dispute between the Contracting Parties concerning the interpretation or application of provisions of this Agreement shall be settled through diplomatic channels.
2. If a dispute cannot thus be settled within six months, it shall, upon the request of either Contracting Party, be submitted to an ad hoc arbitral tribunal.
3. Such tribunal comprises of three arbitrators. Within two months from the date on which either Contracting Party receives the written notice requesting for arbitration from the other Contracting Party, each Contracting Party shall appoint one arbitrator. Those two arbitrators shall, within further two months, together select a third arbitrator who is a national of a third State which has diplomatic relations with both Contracting Parties. The third arbitrator shall be appointed by the two Contracting Parties as Chairman of the arbitral tribunal.
4. If the arbitral tribunal has not been constituted within four months from the receipt of the written notice requesting arbitration, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to appoint the arbitrator(s) who has or have not yet been appointed. If the President is a national of

either Contracting Party or is otherwise prevented from discharging the said functions, the next most senior member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointment(s).

5. The arbitral tribunal shall determine its own procedure. The arbitral tribunal shall reach its award in accordance with the provisions of this Agreement and the general principles of international law.

6. The arbitral tribunal shall reach its award by a majority of votes. Such award shall be final and binding upon both Contracting Parties. The ad-hoc arbitral tribunal shall, upon the request of either Contracting Party, explain the reasons of its award.

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 the tribunal shall be borne in equal parts by the Contracting Parties.

Article 9 SETTLEMENT OF DISPUTES BETWEEN AN INVESTORS AND A CONTRACTING PARTY

1. Any LEGAL dispute between an investor of the other contracting Party and the other Contracting Party in connection with an investment in the territory of the other Contracting Party shall, as far as possible, be settled amicably through negotiations between the parties to the dispute.

2. If the dispute cannot be settled through negotiations within six months, the either Party to the dispute shall be entitled to submit the dispute to the competent court of the Contracting Party.

3. Any dispute, if unable to be settled within six months after resort to negotiations as specified in Paragraph 1 of this Article, shall be submitted at the request of either Party to:

(a) International Centre for Settlement of Investment Disputes (ICSID) under the Convention on the Settlement of Disputes between States and Nationals of Other State, done at Washington on March 18, 1965; or

(b) an ad hoc arbitral tribunal

Provided that the Contracting Party involved in the dispute may require the investor concerned to exhaust the domestic administrative review procedure specified by the laws and regulations of that Contracting Party before submission of the dispute to the aforementioned arbitration procedure.

However, if the investor concerned has resorted to the procedure specified in Paragraph 2 of this Article, the provisions of this Paragraph shall not apply.

4. Without prejudice to Paragraph 3 of this Article, the ad hoc arbitral tribunal referred to in Paragraph 3(b) shall be constituted for each individual in the following way: each party

to the dispute shall appoint one arbitrator, and these two shall select a national of a third State which has diplomatic relations with the two Contracting Parties as the Chairman. The first two arbitrators shall be appointed within two months of the written notice for arbitration by either party to the dispute to the other and the Chairman shall be selected within four months. If, within the period specified above, the tribunal has not been constituted, either party to the dispute may invite the Secretary General of the International Center for Settlement of Investment Disputes to make the necessary appointments.

5. The ad-hoc arbitral tribunal shall determine its own procedure. However, the tribunal may, in the course of determination of procedure, take as guidance the Arbitration Rules of International Center for Settlement of Investment Disputes.

6. The tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding upon both parties to the dispute. Both Contracting Parties shall commit themselves to the enforcement of the award.

7. The tribunal referred to in Paragraph 3(a) and (b) of this Article shall adjudicate in accordance with the law of the Contracting Party to the dispute accepting the investment including its rules on the conflict of laws, the provisions of this Agreement as well as the generally recognized principles of international law.

8. Each Party to the dispute shall bear the costs of its appointed member of the arbitral and of its representation in the proceedings. The cost of the appointed Chairman and the remaining costs shall be borne in equal parts by the parties to the dispute.

Article 10 MORE FAVOURABLE TERMS

If the treatment to be accorded by one Contracting Party in accordance with its laws and regulations to investments or activities associated with such investments of investors of the other Contracting Party is more favourable than the treatment provided for in this Agreement, the more favourable treatment shall be applicable.

Article 11 APPLICATIONS

This Agreement shall apply to all investments, which are made prior to or after its entry into force by investors of either Contracting Party, in accordance with the laws and regulations of the other Contracting Party in the territory of latter. It shall not however apply to disputes which have arisen before the entry into force of the present Agreement.

Article 12 ENTRY INTO FORCE, DURATION AND TERMINATION

1. Each Contracting Party shall notify the other Contracting Party of the completion of the internal procedures required for bringing this Agreement into force. This Agreement shall enter into force on the date of the latter notification.

2. This Agreement is concluded for a period of 10 years. Its validity shall be extended automatically for an indefinite period of time unless either Contracting Party notifies in writing the other Contracting Party of its wish to terminate the Agreement. The notice of termination of this Agreement shall become effective one year after it has been received by the other Contracting Party.

3. In respect of investments made prior to the date when the termination of this Agreement becomes effective, the provision 1 to 11 of this Agreement remain in force for a further period of 10 years from that date.

IN WITNESS WHEREOF, the duly authorized representatives of their respective Governments, have signed this Agreement.

Done in duplicate at Nicosia on 15th January, 2001 in two originals in the Chinese, Greek and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Government of the People's Republic of China

For the Government of the Republic of Cyprus