

No. 33649

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**CHINA
and
TURKMENISTAN**

**Agreement for the promotion and reciprocal protection of
investments. Signed at Beijing on 21 November 1992**

Authentic texts: Chinese, Turkmen and Russian.

Registered by China on 1 April 1997.

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**CHINE
et
TURKMÉNISTAN**

**Accord relatif à la promotion et à la protection réciproque des
investissements. Signé à Beijing le 21 novembre 1992**

Textes authentiques : chinois, turkmène et russe.

Enregistré par la Chine le 1^{er} avril 1997.

[TRANSLATION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE PEOPLE'S
REPUBLIC OF CHINA AND THE GOVERNMENT OF TURK-
MENISTAN FOR THE PROMOTION AND RECIPROCAL PRO-
TECTION OF INVESTMENTS

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

Desiring to promote, protect and create favourable conditions for investment by investors of one Contracting Party in the territory of the other Contracting Party,

On the basis of the principles of respect for each other's sovereignty, equality and mutual advantage,

With a view to developing economic cooperation between the two States,

Have agreed as follows:

Article 1

For the purposes of this Agreement:

1. The term "investment" means every kind of asset invested in the territory of the Contracting Party receiving the investment in accordance with its legislation, including, but not exclusively:

(a) Movable and immovable property (buildings, installations, equipment and other material assets) and property rights relating thereto;

(b) Shares, bonds and other securities or forms of participation in a business enterprise;

(c) Claims to money and rights to claims for the fulfilment of contractual obligations having a financial value;

(d) Intellectual property rights, industrial property rights (such as patents, industrial plans and models, trade marks, trade names, indications of origin), rights in respect of know-how and other such rights;

(e) Rights to economic activity, including the prospecting for, extraction or exploitation of natural resources, conferred by law or under contract;

(f) Paid services;

2. The term "investor" means, with regard to each Contracting Party, individuals who are citizens of that Contracting Party, or legal entities constituted under the legislation in force in the territory of that Contracting Party, provided that the individual or legal entity is competent, in accordance with the legislation of that Contracting Party, to make investments in the territory of the other Contracting Party;

3. The term "income" means the funds yielded by an investment including, in particular, profit, dividends, interest and licence fees;

¹ Came into force on 6 June 1994 by notification, in accordance with article 11.

4. The term “territory” means the territory of each of the Contracting Parties, and also the maritime areas adjacent to the coastline of a Contracting Party over which that Contracting Party exercises, in accordance with international law, sovereign rights or jurisdiction for the purposes of the prospecting for, development, extraction, exploitation and conservation of the natural resources of such areas.

Article 2

1. Each Contracting Party shall encourage investors of the other Contracting Party to make investments in its territory and shall admit such investments in accordance with its legislation.

2. Each Contracting Party shall, in accordance with its legislation, assist citizens of the other Contracting Party in obtaining visas and work permits in connection with investments made in its territory.

Article 3

1. Each Contracting Party shall accord in its territory equitable treatment and protection to investments of investors of the other Contracting Party and to activities related to such investments.

2. The treatment mentioned in paragraph 1 of this article shall be no less favourable than the treatment that it accords to investments of investors of any third State or to activities related to such investments.

3. The provisions of paragraphs 1 and 2 of this article shall not apply to any privileges or advantages that the Contracting Party accords or shall in future accord to investors of any third State or their investments on the basis of:

- Its participation in a free-trade area, a customs or economic union, a mutual economic assistance organization, or an international agreement that provides for privileges and advantages similar to those accorded by the Contracting Party to participants in the aforementioned organizations and which entered into force before the date of signature of this Agreement;
- An international taxation agreement or any other arrangement relating to taxation;
- A border-trade agreement.

Article 4

1. Investments of investors of either Contracting Party made in the territory of the other Contracting Party shall not be nationalized, expropriated or subjected to other measures the effects of which would be similar to nationalization or expropriation (hereinafter referred to as “expropriation”), unless such measures are taken in the public interest, in accordance with the procedure established by law, are not discriminatory and are accompanied by compensation.

2. The compensation provided for in paragraph 1 of this article shall be calculated on the basis of the real value of the investments at the time of their requisition and shall be paid without undue delay and be convertible and freely transferable from the territory of one Contracting Party to the territory of the other Contracting Party.

3. If the investments of investors of one Contracting Party suffer losses in the territory of the other Contracting Party owing to war, a state of emergency, civil

unrest or other similar circumstances, the Contracting Party in whose territory the investments were made shall, when taking measures to compensate for losses or other relevant measures, accord to such investors treatment no less favourable than that which it accords to investors of any third State.

Article 5

Each Contracting Party shall, in accordance with its legislation, guarantee to investors of the other Contracting Party, after the discharge by them of all tax obligations, the free transfer of funds and income in connection with the investments, at the official rate of exchange applicable on the date of transfer, including, but not exclusively:

- (a) Income, as defined in article 1, paragraph 3, of this Agreement;
- (b) Compensation for damage and losses in accordance with article 4 of this Agreement;
- (c) Funds arising from the total or partial liquidation of the investments;
- (d) Payments made under credit agreements relating to the investments;
- (e) Payments for technical assistance, technical services and managerial experience;
- (f) Salary and other remuneration received by citizens of the other Contracting Party for labour and services performed in connection with the investments made in the territory of the first Contracting Party.

Article 6

This Agreement shall apply to all investments, without exception, made in the territory of one Contracting Party in accordance with its legislation and regulations by investors of the other Contracting Party from the time of the establishment of diplomatic relations between the Contracting Parties.

Article 7

1. The Contracting Parties shall endeavour of their own free will and in a spirit of cooperation, to achieve a rapid and just solution to any question relating to reciprocal investments.

2. Disputes between the Contracting Parties concerning the interpretation or application of the articles of this Agreement shall, if possible, be settled through the diplomatic channel.

3. If a dispute cannot be settled in this manner within six months from the date on which the dispute was initiated by one Contracting Party, it shall, at the request of either Contracting Party, be submitted to an *ad hoc* arbitral tribunal.

4. An arbitral tribunal shall consist of three arbitrators and be constituted in the following way: within two months of the receipt by one Contracting Party of written notification by the other Contracting Party that the dispute has been submitted to an arbitral tribunal, each Contracting Party shall appoint one arbitrator. Those two arbitrators shall, within two months from the date on which the second arbitrator is appointed, select a third arbitrator who shall be a citizen of a third State having diplomatic relations with both Contracting Parties and who shall, with the consent of the Contracting Parties, be appointed chairman of the arbitral tribunal.

5. If the arbitral tribunal has not been constituted within four months from the date of receipt of written notification that the dispute has been submitted to the arbitral tribunal, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make any necessary appointments. If the President is a citizen of either Contracting Party or if he is otherwise prevented from discharging the said function, the Member of the International Court of Justice next in seniority who is not a citizen of either Contracting Party shall be invited to make the necessary appointments.

6. The arbitral tribunal shall establish its own rules of procedure. The tribunal shall take its decisions in accordance with the provisions of this Agreement and the universally recognized principles of international law.

7. The arbitral tribunal shall reach its decisions by a majority of votes; such decisions shall be final and shall be binding on both Contracting Parties. At the request of either Contracting Party, the arbitral tribunal shall explain the reasons for its decision.

8. Each Contracting Party shall bear the cost of its own member of the tribunal and of its representation in the arbitral proceedings. The cost of the chairman and the remaining costs shall be borne in equal parts by the Contracting Parties, unless otherwise provided by the arbitral tribunal.

Article 8

In the event that the Contracting Parties have acceded to the Convention on the settlement of investment disputes between States and nationals of other States, signed at Washington on 18 March 1965,¹ they may conclude a supplementary agreement on the referral of disputes to the International Centre for Settlement of Investment Disputes for resolution.

Article 9

If one Contracting Party, in accordance with its own legislation or with an international agreement to which the two Contracting Parties are parties, accords investments of investors of the other Contracting Party or an activity related to such investments treatment more favourable than that provided for under this Agreement, the more favourable treatment shall be applied.

Article 10

1. Representatives of the two Contracting Parties shall, when necessary, hold meetings in order to:

- (a) Consider questions relating to the application of this Agreement;
- (b) Exchange information on legal questions relating to investments and on opportunities for investment;
- (c) Resolve disputes that arise in connection with investments;
- (d) Examine other questions relating to investments;
- (e) Consider proposals regarding possible amendments or additions to this Agreement.

¹United Nations, *Treaty Series*, vol. 575, p. 159.

2. If either Contracting Party proposes that consultations be held on any question covered by paragraph 1 of this article, the other Contracting Party shall reply without delay, and the consultations shall be held alternately in Beijing and Ashkhabad.

Article 11

1. This Agreement shall enter into force 30 days after the day on which the Contracting Parties notify each other in writing that they have completed the relevant formalities under their legislation, and shall be valid for a period of fifteen years.

2. This Agreement shall remain in force unless either Contracting Party notifies the other Contracting Party in writing of its termination at least one year before the expiry of the period indicated in paragraph 1 of this article.

3. Upon expiry of the initial fifteen-year period, either Contracting Party may terminate this Agreement at any time by notifying the other Contracting Party in writing of its intention. Such notification shall enter into force twelve months from the date of its receipt by the other Contracting Party.

4. With regard to investments made before the date of termination of this Agreement, the provisions of articles 1 to 10 shall remain in force for fifteen years from the date of termination of this Agreement.

DONE at Beijing on 21 November 1992, in duplicate, in the Chinese, Turkmen and Russian languages, all texts being equally authentic.

For the Government
of the People's Republic of China:

[*Illegible*]

For the Government
of Turkmenistan:

[*Illegible*]
