

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF GUATEMALA
AND
THE GOVERNMENT OF THE RUSSIAN FEDERATION
ON PROMOTION AND RECIPROCAL
PROTECTION OF INVESTMENTS**

The Government of the Republic of Guatemala and the Government of the Russian Federation, hereinafter referred to as the Contracting Parties,

Intending to create favourable conditions for making investments by investors of one Contracting Party in the territory of the State of the other Contracting Party,

Recognizing that the promotion and reciprocal protection of investments on the basis of the present Agreement shall stimulate inflow of capital in order to encourage economic prosperity of both Contracting Parties,

Have agreed as follows:

**ARTICLE 1
Definitions**

For the purpose of the present Agreement the following terms shall mean:

1. "Investor" with regard to each Contracting Party:
 - a) any natural person who is a national of the State of that Contracting Party in accordance with the legislation of the State of that Contracting Party;
 - b) any legal person established or constituted under the legislation of the State of that Contracting Party.
2. "Investments" are all kinds of property assets invested by investors of one Contracting Party in the territory of the State of the other Contracting Party in accordance with the legislation of the State of the latter Contracting Party and in particular:
 - a) movable and immovable property as well as any property rights;

- b) shares, stocks and other forms of shared participation in capital of a company;
- c) claims to money invested for the purpose of creating economic values or under contracts having an economic value and related to investments;
- d) exclusive rights on intellectual property (copyrights, patents, industrial designs, models, trademarks and service marks, technology and "know-how");
- e) rights conferred by the legislation of the State of the latter Contracting Party or under contract to conduct business activity related in particular to exploration, development, extraction and exploitation of natural resources.

Any change in the form of investments shall not affect their qualification as investments if such change does not contradict the legislation of the State of the Contracting Party in the territory of which the investments are made.

3. "Returns" are the amounts yielded from investments that include, in particular, profits, dividends, interest, royalties and other fees.

4. "Territory of the State of the Contracting Party" is the territory of the Republic of Guatemala or the territory of the Russian Federation as well as their respective exclusive economic zone and continental shelf defined in accordance with the United Nations Convention on the Law of the Sea of 10 December 1982.

5. "Legislation of the State of the Contracting Party" comprises the laws and other regulations of the Republic of Guatemala or the laws and other regulations of the Russian Federation.

ARTICLE 2

Admission and Protection of Investments

1. Each Contracting Party shall admit investments of investors of the other Contracting Party in the territory of its State in accordance with the legislation of its State.

2. Each Contracting Party shall, in accordance with the legislation of its State, provide full protection in the territory of its State to investments of investors of the other Contracting Party.

ARTICLE 3

Treatment of Investments

1. Each Contracting Party shall provide in the territory of its State fair and equitable treatment for the investments made by investors of the other Contracting Party in respect of management or disposal of such investments.
2. Each Contracting Party shall provide in the territory of its State to the investments of investors of the other Contracting Party a treatment not less favourable than that granted to the investments of its own investors or to investments of investors of any third State, in respect of management or disposal of such investments, whichever the investor considers as more favourable.
3. Each Contracting Party shall reserve the right to apply and to introduce, in accordance with the legislation of its State, exceptions to national treatment, granted in accordance with paragraph 2 of this Article to foreign investors and their investments.
4. The provision of paragraph 2 of this Article related to the most-favored nation treatment shall not be construed so as to oblige one Contracting Party to extend to the investments made by investors of the other Contracting Party the benefits of any treatment, preference or privilege which are extended or may be extended in the future by the former Contracting Party:
 - a) in connection with its membership in a free trade area, customs union, monetary union, common market and any similar economic integration institutions or any international agreement resulting in such unions or institutions;
 - b) on the basis of agreements meant to avoid double taxation or other arrangements relating to the taxation issues;
 - c) by virtue of the agreements concluded between the Russian Federation and the States, which formerly had been a part of the Union of the Soviet Socialist Republics.
5. Without prejudice to the provisions of Articles 4, 5 and 8 of the present Agreement, neither of Contracting Parties is committed by the present Agreement to accord a treatment more favourable than the treatment granted by each

Contracting Party in accordance with their obligations under the Marrakesh Agreement establishing the World Trade Organization (the WTO Agreement) signed on 15 April 1994, including the obligations of the General Agreement on Trade in Services (GATS), as well as in accordance with any other multilateral arrangements concerning the treatment of investments to which the State of the both Contracting Parties are parties.

ARTICLE 4

Expropriation

1. Investments of investors of one Contracting Party made in the territory of the State of the other Contracting Party and returns of such investors shall not be either directly or indirectly expropriated, nationalized or subjected to any measures, having effect equivalent to expropriation or nationalization (hereinafter referred to as expropriation) except when such measures are carried out in the public interest and in accordance with the procedure established by the legislation of the State of the latter Contracting Party, when they are not discriminatory and entail payment of prompt, adequate and effective compensation.

2. The compensation referred to in paragraph 1 of this Article shall correspond to the market value of the expropriated investments calculated on the date immediately preceding the date of expropriation or the date immediately preceding the date when impending expropriation became public knowledge, whichever is the earlier. The compensation shall be paid without undue delay in freely convertible currency and subject to the Article 6 of the present Agreement shall be freely transferred from the territory of the State of one of the Contracting Parties to the territory of the State of the other Contracting Party. From the date of expropriation until the date of actual payment of compensation the amount of the compensation shall be subject to accrued interest at a market-defined commercial rate but not lower than LIBOR rate for six months credits in US dollars.

ARTICLE 5

Compensation for Losses

Investors of one Contracting Party whose investments and returns suffer damages or losses due to war, armed conflict, insurrection, revolution, riot, civil disturbance, a state of national emergency or any other similar events in the territory of the State of the other Contracting Party shall be accorded, as regards the restitution, indemnification, compensation or other settlements, a treatment not less favourable

of than that which the latter Contracting Party accords to investors of a third State or to its own investors.

ARTICLE 6

Transfer of Payments

1. In accordance with the legislation of its State each Contracting Party shall guarantee to investors of the other Contracting Party a free transfer abroad of payments related to their investments, and shall include in particular:

- a) returns;
- b) funds in repayment of loans and credits recognized by both Contracting Parties as investments, as well as accrued interest;
- c) proceeds from the partial or full liquidation or sale of investments;
- d) compensation, indemnification or other settlements referred to in Articles 4 and 5 of the present Agreement;
- e) wages and other remunerations received by investor and nationals of the State of the latter Contracting Party who have the right to work in the territory of the State of the former Contracting Party in relation to the investments.

2. The transfer of payments referred to in paragraph 1 of this Article shall be made without undue delay in a freely convertible currency at the rate of exchange applicable on the date of the transfer pursuant to the foreign exchange legislation of the State of the Contracting Party in the territory of which the investments are made.

ARTICLE 7

Subrogation

If a Contracting Party or its designated agency has granted to its investor a financial guarantee against non-commercial risks with respect to investments of such investor in the territory of the State of the other Contracting Party, and makes payment under such guarantee, the other Contracting Party shall recognize acquirement by the former Contracting Party or its designated agency by virtue of subrogation of all rights and claims of the investor. The former Contracting Party

or its designated agency shall not assert greater rights and claims than those of the investor from whom such rights and claims were acquired. Such rights and claims shall be exercised in accordance with the legislation of the State of the latter Contracting Party.

ARTICLE 8
**Settlement of Disputes between a Contracting Party and an Investor
of the other Contracting Party**

1. Disputes between one of the Contracting Parties and an investor of the other Contracting Party arising in connection with the investments of the investor in the territory of the State of the former Contracting Party, including disputes relating to the amount, conditions and procedure of payment of compensation in accordance with Articles 4 and 5 of the present Agreement or to the procedure of transfer of payments set out in Article 6 of the present Agreement, shall be settled, as far as possible, through negotiations.

2. When the dispute cannot be settled through negotiations during a period of six months starting from the date of the receipt by the Contracting Party who is a party to the dispute of the written notification of the investor of the other Contracting Party about settlement of the dispute through negotiations it may be submitted, at the choice of such investor, for consideration:

- a) to a competent court of the State of the Contracting Party in the territory of which the investments are made, or
- b) to an ad hoc arbitration court in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), or
- c) to the International Centre for Settlement of Investment Disputes, established pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature in Washington 18 March 1965 for settlement of the dispute according to provisions of said Convention (provided it entered into force for States of both Contracting Parties) or according to Additional Facility Rules of the International Centre for Settlement of Investment Disputes (provided that said Convention did not enter into force for either of the States of the Contracting Parties or both of them).

3. Written notification referred to in paragraph 2 of this Article shall contain at

least the following information:

- a) name and address of the investor who is a party to the dispute;
- b) legal and factual basis for the claim of such investor;
- c) relief sought by such investor.

4. The arbitration award on the dispute considered in accordance with this Article shall be final and binding upon both parties to the dispute. Each Contracting Party shall ensure the enforcement of this award in accordance with the legislation of its State.

ARTICLE 9

Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning interpretation or application of the present Agreement shall be settled, if possible, through negotiations between the Contracting Parties.

2. If the dispute cannot be settled within six months from the date of the receipt of the written request for negotiations by either Contracting Party it shall, upon the request of either Contracting Party, be submitted for consideration by an arbitration tribunal.

3. The arbitration tribunal shall be constituted for each individual case for which purpose each Contracting Party shall appoint one member of the arbitration tribunal within two months from the date of the receipt of the request for arbitration. These two members of the arbitration tribunal shall then select a national of a third State who upon approval of the two Contracting Parties, shall be appointed as the Chairman of the arbitration tribunal within one month from the date of the appointment of the other two members.

4. If within the time-limits specified in paragraph 3 of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement between the Contracting Parties, invite the President of the International Court of Justice to make such appointments. If the President of the International Court of Justice is a national of the State of either Contracting Party or is otherwise prevented from discharging the said function, the Vice-President of

the International Court of Justice shall be invited to make the necessary appointments. If the Vice-President of the International Court of Justice is also a national of the State of either Contracting Party or is otherwise prevented from discharging the said function, the member of the International Court of Justice next in seniority who is not a national of the State of either Contracting Party and not otherwise prevented from discharging the said function shall be invited to make the necessary appointments.

5. The arbitration tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding upon the Contracting Parties. Each Contracting Party shall bear the costs of activities of its own member of the arbitration tribunal and of its representation in the arbitration proceedings. Costs related to the activities of the Chairman of the arbitration tribunal and other costs shall be borne in equal parts by the Contracting Parties. The tribunal may, however, in its decision direct that a higher portion of costs shall be borne by one of the Contracting Parties and such decision shall be binding upon both Contracting Parties. The arbitration tribunal shall determine its own rules of procedure independently.

ARTICLE 10

Consultations

The Contracting Parties shall consult, at the request of either of them, on matters concerning interpretation or application of the present Agreement.

ARTICLE 11

Application of the Agreement

The present Agreement shall apply to all investments made by investors of one of the Contracting Parties in the territory of the State of the other Contracting Party beginning from January 1st, 1992, but shall not apply to the disputes that arose before its entry into force.

ARTICLE 12

Entry into Force and Duration of the Agreement

1. Each Contracting Party shall notify in writing the other Contracting Party of the completion of internal legal procedures required for the entry into force of the present Agreement. The present Agreement shall enter into force on the date of the

latter of the two notifications.

2. The present Agreement shall remain in force for a period of ten years. Thereafter it shall be automatically extended for subsequent periods of five years unless one of the Contracting Parties notifies in writing the other Contracting Party, no less than twelve months prior to the end of the corresponding period, of its intention to terminate the present Agreement.

3. The present Agreement may be amended by mutual written consent of the Contracting Parties. Any amendment to the present Agreement shall enter into force after each Contracting Party has notified in writing the other Contracting Party that it has completed all internal legal procedures required for the entry into force of such amendment.

4. In respect of investments falling within the scope of application of the present Agreement made prior to the date of termination of the present Agreement, the provisions of the present Agreement shall remain in force for the further period of ten years from the date of termination of the present Agreement.

In witness whereof, the undersigned representatives, duly authorized thereto by their respective Governments, have signed the present Agreement.

Done at Moscow, on November 27th, 2013, in duplicate each in the Spanish, Russian and English languages, all texts being equally authentic. In case of divergences of interpretation the English text shall be applied.

**For the Government
of the
Republic of Guatemala**

**For the Government
of the
Russian Federation**
