T.C.
BAŞBAKANLIK
Kanunlar ve Kararlar Genel Müdürlüğü

Sayı : 31853594-101-1218-549 24/2/2016
Konu : Kanun Tasarısı

TÜRKİYE BÜYÜK MİLLET MECLİSİ BAŞKANLIĞINA

Dışişleri Bakanlığı'nca hazırlanan ve Başkanlığınıza arzı Bakanlar Kurulu'nca 25/1/2016 tarihinde kararlaştırılan "Türkiye Cumhuriyeti Hükümeti ile Benin Cumhuriyeti Hükümeti Arasında Yatırımların Karşılıklı Teşviki ve Korunmasına İlişkin Anlaşmanın Onaylanmasının Uygun Bulunduğuna Dair Kanun Tasarısı" ile gerekçesi ilişikte gönderilmiştir.

Gereğini arz ederim.

Ahmet DAVUTOĞLU
Başbakan

Ek:
1- Kanun Tasarısı
2- Gerekçe

TBMM BAŞKANLIĞI				
Tali Komisyon	Sanayi, Ticaret, Enerji, Tabii Kaynaklar, Bilgi ve Teknoloji			
Esas Komisyon	Dışişleri			
Tarih: 10 Mart 2016				E.No: 1/682
Ysm.Uzm.	Bşk.Yrd.	Başkan: K.T.	Gn.Sek.Yrd.	Gen.Sek.
TBMM BAŞKANI				

GEREKÇE

Yatırımların Karşılıklı Teşviki ve Korunması Anlaşmalarının ana amacı; beraberinde yalnızca sermaye değil, aynı zamanda teknoloji, yönetim becerisi, uluslararası pazarlara giriş şansını da getiren doğrudan yabancı sermaye yatırımlarını taraf ülkeler arasında teşvik etmek ve ilgili ülkenin hukuki düzeni içinde bu yatırımların korunmasını sağlamaktır.

Ülkemiz müteşebbis ve sermayesinin dış ülkelere açılması, aynı zamanda yabancı yatırım ve ileri teknolojinin ülkemize gelmesi yolu ile ekonomimizin küreselleşen dünya ekonomisi içinde etkin bir şekilde yer alması, genel ekonomik politikamızın ana hedefleri arasındadır. Bu çerçevede, ülkemizde yapılan doğrudan yabancı sermaye yatırımlarının korunması ve daha fazla yabancı sermaye gelişinin özendirilebilmesi için, yatırım ve ticaret ilişkilerimizin yoğun olduğu veya bu ilişkilerin gelişmesine yönelik potansiyele sahip olduğu düşünülen ülkelerle, Yatırımların Karşılıklı Teşviki ve Korunması Anlaşmalarının imzalanmasına 1962 yılında başlanmıştır. Ülkemizin sermaye ihraç eder hale gelmesi ile bu süreç hızlandırılmış ve bugüne kadar 90 ülke ile anılan Anlaşma imzalanmıştır.

Türkiye Cumhuriyeti Hükümeti ile Benin Cumhuriyeti Hükümeti Arasında Yatırımların Karşılıklı Teşviki ve Korunmasına İlişkin Anlaşma'nın temel esasları aşağıda özetlenmiştir:

1. Anlaşmaya taraf ülke sınırları içinde gerçekleştirilen yabancı sermayeli yatırımların ve ilgili faaliyetlerin tabi olacağı muameleyi belirleyerek ekonomik işbirliği için uygun koşulları yaratmak,

2. Türkiye ve Benin'de yabancı yatırımların kamulaştırma ve devletleştirme yönünden tabi olacağı muamele ve sahip olduğu haklara açıklık getirmek,

3. Her iki ülkede, özel teşebbüsle evsahibi devlet arasında yatırımlarla ilgili çıkabilecek ihtilafların çözüm yollarını tespit etmek,

4. Her iki ülkenin yatırımcılarının elde ettiği karların ve diğer gelirlerin gecikme olmaksızın transfer edilmesini güvence altına almak.

Daha istikrarlı bir yatırım ortamının teminini öngören bu Anlaşma ile birlikte iki ülke arasındaki sermaye akışında artış gerçekleşmesi beklenmektedir. Anlaşma, yatırımcılara ekonomik ve yasal güvence verirken, ilgili ülkelere yeni herhangi bir yük getirmemektedir.

T.C. BAŞBAKANLIK KANUNLAR VE KARARLAR

T.C.
BAŞBAKANLIK
KANUNLAR VE KARARLAR
GENEL MÜDÜRLÜĞÜ

T/ 929

TÜRKİYE CUMHURİYETİ HÜKÜMETİ İLE BENİN CUMHURİYETİ HÜKÜMETİ ARASINDA YATIRIMLARIN KARŞILIKLI TEŞVİKİ VE KORUNMASINA İLİŞKİN ANLAŞMANIN ONAYLANMASININ UYGUN BULUNDUĞUNA DAİR KANUN TASARISI

MADDE 1- (1) 11 Aralık 2013 tarihinde Ankara'da imzalanan "Türkiye Cumhuriyeti Hükümeti ile Benin Cumhuriyeti Hükümeti Arasında Yatırımların Karşılıklı Teşviki ve Korunmasına İlişkin Anlaşma"nın onaylanması uygun bulunmuştur.

MADDE 2- (1) Bu Kanun yayımı tarihinde yürürlüğe girer.

MADDE 3- (1) Bu Kanun hükümlerini Bakanlar Kurulu yürütür.

Eki
Zarf

AHMET DAVUTOĞLU
BAŞBAKAN

N. KURTULMUŞ Başbakan Yardımcısı	M. ŞİMŞEK Başbakan Yardımcısı	Y. AKDOĞAN Başbakan Yardımcısı	Y. T. TÜRKEŞ Başbakan Yardımcısı
L. ELVAN Başbakan Yardımcısı	B. BOZDAĞ Adalet Bakanı	S. RAMAZANOĞLU Aile ve Sosyal Politikalar Bakanı	V. BOZKIR Avrupa Birliği Bakanı
F. IŞIK Bilim, Sanayi ve Teknoloji Bakanı	S. SOYLU Çalışma ve Sosyal Güvenlik Bakanı	F. G. SARI Çevre ve Şehircilik Bakanı	M. ÇAVUŞOĞLU Dışişleri Bakanı
M. ELİTAŞ Ekonomi Bakanı	B. ALBAYRAK Enerji ve Tabii Kaynaklar Bakanı	A. Ç. KILIÇ Gençlik ve Spor Bakanı	F. ÇELİK Gıda, Tarım ve Hayvancılık Bakanı
B. TÜFENKCİ Gümrük ve Ticaret Bakanı	E. ALA İçişleri Bakanı	C. YILMAZ Kalkınma Bakanı	M. ÜNAL Kültür ve Turizm Bakanı
N. AĞBAL Maliye Bakanı	N. AVCI Millî Eğitim Bakanı	İ. YILMAZ Millî Savunma Bakanı	V. EROĞLU Orman ve Su İşleri Bakanı
M. MÜEZZİNOĞLU Sağlık Bakanı	B. YILDIRIM Ulaştırma, Denizcilik ve Haberleşme Bakanı		

Dosya No:
101-1218
/143

TÜRKİYE CUMHURİYETİ HÜKÜMETİ

İLE

BENİN CUMHURİYETİ HÜKÜMETİ

ARASINDA

YATIRIMLARIN

KARŞILIKLI TEŞVİKİ VE KORUNMASINA İLİŞKİN

ANLAŞMA

Bundan sonra "Akit Taraflar" olarak anılacak olan Türkiye Cumhuriyeti Hükümeti ve Benin Cumhuriyeti Hükümeti:

Akit Taraflar ve iki Ulus arasındaki artan işbirliği ve dostluk ilişkilerini göz önünde bulundurarak;

Bir Akit Tarafın yatırımcılarının, diğer Akit Tarafın ülkesindeki yatırımları ile ilgili olarak, Akit Taraflar arasındaki ekonomik işbirliğini artırma arzusu ile;

İşbu Anlaşma ile tanınan muamelenin sermaye ve teknoloji akımı ile Akit Tarafların ekonomik kalkınmasını teşvik edeceğini kabul ederek;

Yatırımlara adil ve hakkaniyete uygun muamele edilmesinin; yatırımlar için istikrarlı bir ortamın idamesi açısından arzulanır olduğuna ve ekonomik kaynakların etkin kullanımının en üst düzeye çıkarılmasına ve yaşam standartlarının geliştirilmesine katkıda bulunacağına dair mutabık kalarak;

Bu amaçlara sağlık, güvenlik ve çevreye ilişkin genel uygulama önlemleri yanında uluslararası kabul görmüş işçi haklarını zayıflatmadan ulaşılabileceğine ikna olarak; ve

Yatırımların karşılıklı teşviki ve korunmasına ilişkin bir anlaşmanın yapılmasına karar vermiş olarak,

Aşağıdaki şekilde anlaşmaya varmışlardır:

2.Anlaşma on beş (15) yıllık bir süre boyunca yürürlükte kalır ve bu Maddenin 4. fıkrasına göre sona erdirilmediği sürece yürürlükte kalmaya devam eder.

3. İşbu Anlaşma Akit Tarafların karşılıklı yazılı rızasıyla herhangi bir zamanda değiştirilebilir. Bu değişiklikler işbu Maddenin ilk fıkrasında belirtilen aynı yasal usul çerçevesinde yürürlüğe girer.

4. Akit Taraflardan her biri, bir yıl öncesinden diğer Akit Tarafa yazılı bir bildirimde bulunarak ilk on beş yıllık dönemin sonunda veya bu tarihten sonra herhangi bir zamanda Anlaşmayı feshedebilir.

5. İşbu Anlaşmanın sona erdiği tarihten önce yapılan veya edinilen ve işbu Anlaşmanın diğer bir şekilde uygulanacağı yatırımlarla ilgili olarak, işbu Anlaşmanın diğer tüm Maddelerinin hükümleri sona erme tarihinden itibaren bir on (10) yıl daha geçerli olmaya devam eder.

Yukarıdaki hususlar muvacehesinde, İşbu Anlaşma Hükümetlerince yetkili kılınan ve aşağıda imzası bulunan temsilciler tarafından imzalanmıştır.

Ankara'da 11/12/2013 tarihinde ikişer nüsha olarak Türkçe, Fransızca ve İngilizce dillerinde, tüm metinler eşit derecede geçerli olmak üzere imzalanmıştır.

İşbu Anlaşmanın yorumunda farklılık olması halinde, İngilizce metin esas alınır.

TÜRKİYE CUMHURİYETİ HÜKÜMETİ ADINA

Zafer ÇAĞLAYAN
Ekonomi Bakanı

BENİN CUMHURİYETİ HÜKÜMETİ ADINA

Nassirou BAKO-ARIFARI
Dışişleri, Afrika Entegrasyonu, Frankofoni ve Yurt Dışındaki Beninliler Bakanı

ACCORD ENTRE

LE GOUVERNEMENT DE LA RÉPUBLIQUE DE TURQUIE

ET

LE GOUVERNEMENT DE LA RÉPUBLIQUE DU BENIN

CONCERNANT

LA PROMOTION ET LA PROTECTION RÉCIPROQUES DES INVESTISSEMENTS

Le Gouvernement de la République de Turquie et le Gouvernement de la République du Bénin, ci-après dénommés « les Parties Contractantes » ;

Considérant les relations de coopération et d'amitié croissantes entre les Parties Contractantes et les deux Nations;

Désireux de promouvoir la coopération économique entre les Parties Contractantes, en particulier en ce qui concerne l'investissement par des investisseurs d'une Partie Contractante sur le territoire de l'autre Partie Contractante ;

Reconnaissant que le traitement accordé par le présent Accord stimulera le flux de capital et de technologie, et le développement économique des Parties Contractantes.

Acceptant que le traitement juste et équitable des investissements est souhaitable pour maintenir un cadre stable pour l'investissement et contribuera à maximiser l'utilisation efficace des ressources économiques et améliorer les conditions de vie.

Convaincus que ces objectifs peuvent être atteints sans relâcher les mesures d'application générale en matière de santé, sécurité et environnement ainsi que les droits du travail internationalement reconnus.

Ayant résolu de conclure un accord concernant la promotion et la protection réciproques des investissements.

Ont convenu de ce qui suit :

5. L'expression "monnaie librement convertible" désigne une monnaie convertible considérée comme librement utilisable par le Fonds Monétaire International ou comme monnaie largement échangée sur les marchés internationaux du change.

6. L'expression ''sans délai'' désigne tout délai qui est normalement requis pour effectuer les formalités nécessaires aux transferts de paiements. Ce délai court à partir de la date où la demande de transfert a été soumise et ne peut en aucun cas excéder un mois.

ARTICLE 2
Portée

Le présent Accord s'applique à tous les investissements sur le territoire d'une Partie Contractante, réalisés conformément aux lois et règlements nationales, par les investisseurs de l'autre Partie Contraetante, que ce soit avant ou après la date d'entrée en vigueur du présent Accord. Toutefois, le présent Accord ne s'applique pas aux différends survenus avant son entrée en vigueur.

ARTICLE 3
Promotion et Protection Des Investissements

1. Sous réserve des lois et réglementations, chaque Partie Contractante promeut autant que possible sur son territoire les investissements des investisseurs de l'autre Partie Contractante.

2. Les investissements des investisseurs de chaque Partie Contractante bénéficient à tout moment d'un traitement en accord avec la législation internationale sur les normes minimales de traitement, y compris un traitement juste et équitable et l'entière protection et sécurité sur le territoire de l'autre Partie Contractante. Aucune Partie Contractante ne doit en aucune manière, par des mesures abusives ou discriminatoires, entraver la gestion, l'entretien, l'utilisation, l'exploitation, la jouissance, l'extension, la vente, la liquidation ou la cession de ces investissements.

ARTICLE 4
Traitement des Investissements

1. Chaque Partie Contractante admet sur son territoire les investissements sur une base non moins favorable que celle accordée dans les mêmes conditions aux investissements des investisseurs de tout tiers Etat, conformément à ses lois et réglementations.

2. Chaque Partie Contractante accorde à ces investissements, une fois réalisés, un traitement non moins favorable que celui accordé, dans les mêmes conditions, aux investissements de ses propres investisseurs ou celui accordé aux investissements d'un tiers Etat, selon ce qui est le plus favorable, s'agissant de la gestion, l'entretien, l'utilisation, l'exploitation, la jouissance, l'extension, la vente, la liquidation ou la cession de ces investissements.

(b) d'empêcher une quelconque Partie Contractante de prendre des mesures qu'elle considère nécessaires pour la protection de ses intérêts sécuritaires essentiels,

(i) relatives au trafic d'armes, de munitions et de matériels de guerre et aux trafic et transactions d'autres biens, matériels, services et technologies entrepris directement ou indirectement dans le but d'approvisionner un établissement militaire, sécuritaire ou autre.

(ii) prises en temps de guerre ou autre urgence en matière de relations internationales, ou

(iii) relatives à la mise en œuvre de politiques nationales ou d'accords internationaux sur la non-prolifération des armes nucléaires ou autres engins explosifs nucléaires, ou

(c) d'empêcher une Partie Contractante de prendre des actions dans le cadre de l'exécution de ses obligations en vertu de la Charte des Nations Unies pour le maintien de la paix et de la sécurité internationales.

ARTICLE 6
Expropriation et Dédommagement

1. Les investissements ne sont pas expropriés, nationalisés, objets de dépossession , ni soumis, directement ou indirectement, à des mesures ayant un effet similaire (ci-après désignées "expropriation") sauf pour une cause d'utilité publique, d'une manière non discriminatoire, sur paiement d'un dédommagement rapide, approprié et effectif, et conformément à la procédure normale de la loi ou des principes généraux de traitement prévus à l'Article 4 du présent Accord.
2. Les mesures non discriminatoires destinées à et appliquées pour protéger les objectifs légitimes de bien-être public, tels que la santé et l'environnement, ne constituent pas une expropriation indirecte.

3. Le Dédommagement est équivalent à la valeur marchande de l'investissement exproprié avant que l'acte d'expropriation ne soit pris ou ne devienne connu du public. Le Dédommagement est payé sans délai et est librement cessible comme décrit à l'alinéa 2 de l'Article 8.

4. La valeur marchande est déterminée conformément aux principes généralement reconnus d'évaluation et principes équitables tenant compte, selon le cas, du capital investi, de la dépréciation, du capital déjà rapatrié, de la valeur de remplacement, des mouvements du taux de change et d'autres facteurs pertinents.

5. Le Dédommagement est payable en monnaie librement convertible au cas où ce paiement de dédommagement est retardé, cela génère un taux d'intérêt approprié à compter de la date d'expropriation jusqu'à la date de paiement.

vigueur à la date du transfert à moins qu'il n'en soit autrement convenu par l'investisseur et la Partie Contractante hôte.

3. Si, dans des cas exceptionnels, les paiements et les mouvements de capitaux causent ou risquent de causer de sérieuses difficultés de balance de paiements, chaque Partie Contractante peut temporairement restreindre les transferts, à condition que ces restrictions soient imposées sur une base non discriminatoire et de bonne foi.

ARTICLE 9
Subrogation

1. Si une Partie Contractante ou son agence désignée (l'"Assureur"), effectue un paiement sous le couvert d'une indemnité ou d'une garantie contre risque non-commercial par rapport à un investissement sur le territoire de l'autre Partie Contractante (la "Partie Contractante Hôte"),

La Partie Contractante Hôte doit reconnaître :

(a) l'attribution à l'Assureur, légalement ou par transaction légale, d'une partie ou de tous les droits et prétentions résultant de cet investissement;

(b) que l'Assureur a le droit de d'exercer l'ensemble de ces droits et prétentions et assume toutes les obligations relatives à l'investissement en vertu de la subrogation, dans la même mesure que son prédécesseur en titre ou de l'investisseur initial; et

(c) les droits ou prétentions subrogés n'excèdent pas les droits et prétentions initiaux de cet investisseur.

2. L'Assureur a droit, en toutes circonstances,

(a) au même traitement en ce qui concerne les droits et prétentions acquis et les obligations assumées par elle en vertu de l'attribution mentionnée à l'alinéa 1 ci-dessus; et

(b) tout paiement reçu au titre de ces droits et prétentions;

que l'investisseur initial avait le droit de recevoir en vertu du présent Accord par rapport à l'investissement concerné.

3. Sans préjudice des dispositions de l'Article 8, tout paiement reçu en monnaie locale, par l'Assurer au titre des droits et prétention acquis doit être librement mis à disposition de l'Assureur aux fins de faire face à toute dépense encourue sur le territoire de la Partie Contractante hôte.

(c) Dans la mise en œuvre de l'Article 64 de la Convention sur le Règlement des Différends d'Investissement entre Etats et Ressortissants d'autres Etats, la disposition ci-après s'applique :

La République de Turquie n'acceptera pas la soumission d'un différend survenant entre la République de Turquie et tout autre Etat Contractant concernant l'interprétation ou l'application de la "Convention sur le Règlement des Différends d'Investissement entre Etats et Ressortissants d'autres Etat" qui n'est pas réglé par négociation, à la Cour Internationale de Justice.

5. Le tribunal arbitral prend ses décisions conformément aux dispositions du présent Accord, aux lois et réglementations de la Partie Contractante impliquée dans le différend sur le territoire de laquelle l'investissement est réalisé (y compris ses règles sur le différend de lois) et les principes pertinents de la loi internationale tels que convenus par les Parties Contractantes.

6. Les sentences arbitrales sont définitives et obligent toutes les parties au différend. Chaque Partie Contractante s'engage à exécuter la sentence conformément à la loi nationale.

ARTICLE 11
Refus d'Avantages

1. Une Partie Contractante peut refuser les avantages du présent Accord à un investisseur de l'autre Partie Contractante qui est une société de l'autre Partie Contractante et aux investissements de cet investisseur si la société n'a aucune activité commerciale substantielle sur le territoire de la Partie Contractante conformément aux lois de laquelle elle est constituée et organisée, et que la société appartient à ou est contrôlée par les investisseurs d'une Partie non-Contractante ou les investisseurs de la Partie Contractante opposant le refus.

2. La Partie Contractante opposant le refus, dans la mesure du possible, avise l'autre Partie Contractante avant de refuser les avantages.

ARTICLE 12
Règlement de Différends entre Parties Contractantes

1. Les Parties Contractantes, recherchent de bonne foi et dans un esprit de coopération, une solution équitable à tout différend entre eux concernant l'interprétation ou l'application du présent Accord. A cet effet, les parties Contractantes acceptent de s'engager dans des négociations significatives directes, sur échange de notifications écrites pour parvenir à ces solutions. Si les Parties Contractantes ne parviennent pas à un accord dans les six (6) mois qui suivent le début des différends entre eux à travers la procédure susmentionnée, les différends peuvent être soumis, sur demande de l'une ou l'autre Partie Contractante, par voie diplomatique, à un tribunal arbitral de trois membres.

ARTICLE 14
Entrée en Vigueur, Durée, Amendement et Résiliation

1. Le présent Accord entre en vigueur à la date de réception de la dernière notification par laquelle chacune des Parties notifiera à l'autre par voie diplomatique l'accomplissement des procédures juridiques internes requises pour l'entrée en vigueur.

2. Le présent Accord demeure en vigueur pendant une période de quinze (15) ans et continue d'être en vigueur après résiliation conformément à l'alinéa 4 de cet Article.

3. Cet Accord peut être amendé à tout moment par consentement mutuel écrit des Parties Contractantes. Les amendements entrent en vigueur suivant la même procédure légale mentionnée au premier alinéa du présent Article.

4. Chaque Partie Contractante peut, en donnant un préavis écrit d'un an à l'autre Partie Contractante, résilier le présent Accord à la fin de la période de quinze ans ou à tout moment par la suite.

5. En ce qui concerne les investissements faits ou acquis avant la date de résiliation du présent Accord et auquel cet Accord s'applique, les dispositions de tous les autres articles du présent açcord restent en vigueur pendant dix (10) années supplémentaires à compter de cette date de résiliation.

EN FOI DE QUOI, les représentants soussignés dûment autorisés à cet effet par leurs gouvernements respectifs, ont signé le présent Accord.

FAIT en double exemplaire à Ankara, le 11 Décembre 2013 en langues turque, française et anglaise, tous les textes faisant également foi.

En cas de divergence d'interprétation, le texte anglais prévaudra.

Pour le Gouvernement de la République de Turquie	**Pour le Gouvernement de la République du Bénin**
Zafer ÇAĞLAYAN **Ministre de l'Economie**	**Nassirou BAKO-ARIFARI** **Ministre des Affaires des Affaires Etrangères, de la Francophonie et des Béninois de l'Extérieur**

AGREEMENT BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF TURKEY

AND

THE GOVERNMENT OF THE REPUBLIC OF BENIN

CONCERNING

THE RECIPROCAL PROMOTION AND PROTECTION OF

INVESTMENTS

The Government of the Republic of Turkey and the Government of the Republic of Benin, hereinafter referred to as "the Contracting Parties".

Considering increasing cooperation and friendship relations between the Contracting Parties and two Nations;

Desiring to promote greater economic cooperation between the Contracting Parties, particularly with respect to investment by investors of one Contracting Party in the territory of the other Contracting Party;

Recognizing that the treatment provided by the present Agreement will stimulate the flow of capital and technology, and the economic development of the Contracting Parties;

Agreeing that fair and equitable treatment of investments is desirable in order to maintain a stable framework for investment and will contribute to maximizing effective utilization of economic resources and improve living standards;

Convinced that these objectives can be achieved without relaxing health, safety and environmental measures of general application as well as internationally recognized labor rights, and

Having resolved to conclude an agreement concerning the reciprocal promotion and protection of investments,

Have agreed as follows:

4. The term "territory" means; the land territory, internal waters, the territorial sea and the airspace above them, as well as the maritime areas over which each Contracting Party has sovereign rights or jurisdiction for the purpose of exploration, exploitation and preservation of natural resources whether living or non-living, pursuant to international law.

5. The term "freely convertible currency" means a convertible currency as classified as freely usable by the International Monetary Fund or any currency that is widely traded in international foreign exchange markets.

6. The term "without delay" shall mean any time limit which is normally required to complete the formalities necessary for the transfers of payments. Such time limit shall run from the date when the transfer request has been submitted and shall under no circumstance exceed one month.

ARTICLE 2
Scope of Application

This Agreement shall apply to investments in the territory of one Contracting Party, made in accordance with its national laws and regulations, by investors of the other Contracting Party, whether prior to, or after the entry into force of the present Agreement. However, this Agreement shall not apply to any disputes that have arisen before its entry into force.

ARTICLE 3
Promotion and Protection of Investments

1. Subject to its laws and regulations, each Contracting Party shall in its territory promote as far as possible investments by investors of the other Contracting Party.

2. Investments of investors of each Contracting Party shall at all times be accorded treatment in accordance with international law minimum standard of treatment, including fair and equitable treatment and full protection and security in the territory of the other Contracting Party. Neither Contracting Party shall in any way impair the management, maintenance, use, operation, enjoyment, extension, sale, liquidation or disposal of such investments by unreasonable or discriminatory measures.

ARTICLE 5
General Exceptions

1. Nothing in this Agreement shall be construed to prevent a Contracting Party from adopting, maintaining, or enforcing any non-discriminatory legal measures:

(a) designed and applied for the protection of human, animal or plant life or health, or the environment;

(b) related to the conservation of living or non-living exhaustible natural resources.

2. Nothing in this Agreement shall be construed:

(a) to require any Contracting Party to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests;

(b) to prevent any Contracting Party from taking any actions that it considers necessary for the protection of its essential security interests,

(i) relating to the traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods, materials, services and technology undertaken directly or indirectly for the purpose of supplying a military or other security establishment,

(ii) taken in time of war or other emergency in international relations, or

(iii) relating to the implementation of national policies or international agreements respecting the non-proliferation of nuclear weapons or other nuclear explosive devices; or

(c) to prevent any Contracting Party from taking action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

ARTICLE 6
Expropriation and Compensation

1. Investments shall not be expropriated, nationalized, dispossessed or subject, directly or indirectly, to measures of similar effects (hereinafter referred as expropriation) except for a public purpose, in a non-discriminatory manner, upon payment of prompt, adequate and effective compensation, and in accordance with due process of law and the general principles of treatment provided for in Article 4 of this Agreement.

2. Non-discriminatory legal measures designed and applied to protect legitimate public welfare objectives, such as health, safety and environment, do not constitute indirect expropriation.

(c) proceeds from the sale or liquidation of all or any part of an investment,

(d) compensation pursuant to Article 6 and 7,

(e) reimbursements and interest payments deriving from loans in connection with investments,

(f) salaries, wages and other remunerations received by the nationals of one Contracting Party who have obtained in the territory of the other Contracting Party the corresponding work permits related to an investment,

(g) payments arising from an investment dispute.

2. Transfers shall be made in the convertible currency in which the investment has been made or in any convertible currency at the rate of exchange in force at the date of transfer, unless otherwise agreed by the investor and the hosting Contracting Party.

3. Where, in exceptional circumstances, payments and capital movements cause or threaten to cause serious balance of payments difficulties, each Contracting Party may temporarily restrict transfers, provided that such restrictions are imposed on a non-discriminatory and in good faith basis.

ARTICLE 9
Subrogation

1. If a Contracting Party or its designated agency (the Insurer) makes a payment under an indemnity or guarantee against non-commercial risks it has assumed in respect of an investment in the territory of the other Contracting Party (the host Contracting Party),

the host Contracting Party shall recognize:

(a) the assignment to the Insurer by law or by legal transaction of part or all of the rights and claims resulting from such an investment;

(b) that the Insurer is entitled to exercise such rights and claims and shall assume all obligations related to the investment by virtue of subrogation, to the same extent as its predecessor in title or the original investor; and

(c) the subrogated rights or claims shall not exceed the original rights or claims of such investor.

2. The Insurer shall be entitled in all circumstances to:

(a) the same treatment in respect of the rights and claims acquired and the obligations assumed by it by virtue of the assignment referred to in paragraph 1 above; and started shall be subject to the jurisdiction of the International Center for Settlement of Investment Disputes (ICSID) or any other international dispute settlement mechanism as agreed upon by the Contracting Parties;

(b) the disputes, related to the property and real rights upon the real estates within the territory of the Republic of Turkey are totally under the jurisdiction of the Turkish courts and therefore shall not be submitted to jurisdiction of the International Center for Settlement of Investment Disputes (ICSID) or any other international dispute settlement mechanism; and

(c) In the implementation of Article 64 of the "Convention on the Settlement of Investment Disputes between States and Nationals of other States", the following provision shall apply:

The Republic of Turkey shall not accept the referral of any disputes arising between the Republic of Turkey and any other Contracting State concerning the interpretation or application of "Convention on the Settlement of Investment Disputes between States and Nationals of other States", which is not settled by negotiation, to the International Court of Justice.

5. The arbitral tribunal shall take its decisions in accordance with the provisions of this Agreement, the laws and regulations of the Contracting Party involved in the dispute on which territory the investment is made (including its rules on the conflict of laws) and the relevant principles of international law as accepted by both Contracting Parties.

6. The arbitration awards shall be final and binding for all parties in dispute. Each Contracting Party commits itself to execute the award according to its national law.

ARTICLE 11
Denial of Benefits

1. A Contracting Party may deny the benefits of this Agreement to an investor of the other Contracting Party that is a company of such other Contracting Party and to investments of such investor if the company has no substantial business activities in the territory of the Contracting Party under whose law it is constituted or organized, and investors of a non-Contracting Party or investors of the denying Contracting Party, own or control the company.

2. The denying Contracting Party shall, to the extent practicable, notify the other Contracting Party before denying the benefits.

8. A dispute shall not be submitted to an international arbitral tribunal under the provisions of this Article, if a dispute on the same matter has been brought before another international arbitral tribunal under the provisions of Article 10 and is still before the tribunal. This will not impair the engagement in direct and meaningful negotiations between both Contracting Parties.

ARTICLE 13
Annex on Expropriation

The Annex on Expropriation shall form an integral part of this Agreement.

ARTICLE 14
Entry into Force, Duration, Amendment and Termination

1. This Agreement shall enter into force on the date of last notification by the Contracting Parties, in writing and through diplomatic channels, of the completion of the respective internal legal procedures necessary to that effect.

2. This Agreement shall remain in force for a period of fifteen (15) years and shall continue in force unless terminated in accordance with paragraph 4 of this Article.

3. This Agreement may be amended by mutual written consent of the Contracting Parties at any time. The amendments shall enter into force in accordance with the same legal procedure prescribed under the first paragraph of the present Article.

4. Either Contracting Party may, by giving one year's prior written notice to the other Contracting Party, terminate this Agreement at the end of the initial fifteen-year period or at any time thereafter.

5. With respect to investments made or acquired prior to the date of termination of this Agreement and to which this Agreement otherwise applies, the provisions of all of the other Articles of this Agreement shall thereafter continue to be effective for a further period of ten (10) years from such date of termination.

ANNEX
Expropriation

The Contracting Parties confirm their shared understanding that;

1. An action or a series of actions by a Contracting Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right or property interest in an investment.

2. Article 6 [Expropriation and Compensation] paragraph 1 addresses two situations. The first is direct expropriation, where an investment is nationalized or otherwise directly expropriated through formal transfer of title or outright seizure.

3. The second situation addressed by Article 6 [Expropriation and Compensation] paragraph 1 is indirect expropriation, where an action or series of actions by a Contracting Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.

(a) The determination of whether an action or series of actions by a Contracting Party, in a specific fact situation, constitutes an indirect expropriation, requires a case-by-case, fact-based inquiry that considers, among other factors:

(i) the economic impact of the government action, although the fact that an action or series of actions by a Party has an adverse effect on the economic value of an investment, standing alone, does not establish that an indirect expropriation has occurred;

(ii) the extent to which the government action interferes with distinct, reasonable investment-backed expectations; and

(iii) the character of the government action.