

**THE FOURTEENTH PLENARY SESSION OF THE PABSEC GENERAL ASSEMBLY**

**RECOMMENDATION 38/1999 \***  
**ON “PROMOTION AND PROTECTION OF INVESTMENTS IN THE  
BLACK SEA REGION”**

**1. The Parliamentary Assembly of the Black Sea Economic Cooperation:**

- a. **reiterates** its belief that investment and trade are engines of economic growth and sustainable development; therefore it believes in the desirability and merit of transparent rules for investment as a vehicle for encouraging investment flows, contributing to job creation and rising living standards in the BSEC region;
- b. **re-affirms** the importance it attaches to the establishment of a comprehensive legal framework for investments in the Black Sea area with high standards of liberalisation and investment protection and with effective dispute settlement procedures, which will take full account of the relevant provisions on investment of the WTO and the OECD, as well as the economic concerns and political, social and cultural sensitivities of the BSEC countries;
- c. **recalls** the PABSEC Recommendations 9/1995 on “Development of Cooperation in Banking and Finance Among the BSEC Member Countries”, 16/1996 on the “Development and Cooperation in the Field of Trade and Business Among the BSEC Member Countries”, 20/1997 on the “Improvement of Customs Regulations of the BSEC Participating States”, 22/1997 on the “BSEC Free Trade Area: Part of the New European Architecture” 26/1998 on the “Plan of Action for the Establishment of the BSEC Free Trade Area”, 33/1999 on “The Black Sea Trade and Development Bank”, and 37/99 on “Trade Development in the BSEC Region”, as well as the DECLARATION OF THE PABSEC 5TH ANNIVERSARY expressing the Assembly’s commitment to support trade and investment promotion in the BSEC region;

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\* Rapporteur: Mr. Asaf HADJIYEV (Azerbaijan)

Assembly debate on 8 December 1999 (see Doc. GA 6494/99, Report of the Economic, Commercial, Technological and Environmental Affairs Committee on “PROMOTION AND PROTECTION OF INVESTMENTS IN THE BLACK SEA REGION”, discussed in Chisinau on 21 September 1999; Rapporteur: Dr. Ion DEDIU, Moldova).

*Text adopted by the General Assembly in Kyiv on 8 December 1999*

- d. **supports** the implementation of the “Basic Principles of Investment Collaboration in the BSEC Region” adopted by the BSEC Ministers of Foreign Affairs on 25 October 1996 in Moscow;
  - e. **stresses** the crucial role of the Black Sea Trade and Development Bank in undertaking projects of trade and investment expansion in the Black Sea region.
- 2. The Parliamentary Assembly therefore** calls on the National Parliaments and the Governments of the BSEC Participating States:
- a. **to create** an environment conducive to investment through the progressive elimination of obstacles to foreign investment which will lead to the transfer of funds, technology, know-how and increase production and trade;
  - b. **to strive** for transparency, predictability and consistency in the enactment and enforcement of laws and regulations pertaining to foreign investment;
  - c. **to continue** concluding bilateral agreements between the BSEC Participating States on encouragement and protection of foreign investments and avoidance of double taxation, until the web of agreements encompasses all BSEC Member States;
  - d. **to provide** a harmonised and comprehensive legal framework for protection and promotion of foreign investment, based on the following principles:
    - **non-discrimination**, by granting to foreign investors a regime that will not be less favourable than that enjoyed by indigenous investors in a similar situation concerning all aspects of the establishment and post-establishment treatment of foreign investment; to ensure that no special restriction will be introduced with regard to establishment of foreign investments except the cases treated by the national foreign investment legislation;
    - **transparency**, by encouraging exchange of information among themselves on their national legislation pertinent to investment into their economies;
    - **investment control**, by considering steps conducive to a better foreign investment environment in order to minimise the requirements that control investments;
    - **investment stimulation**, by consulting each other before relaxing their requirements with respect to health services and environment protection for purpose of attracting foreign investments;
    - **expropriation and compensation**, by avoiding expropriation of foreign investments or take any similar measures, except for public purposes and on the basis of non-discrimination, in compliance with the legislation in each particular country and principles of international law, and on condition that sufficient and effective compensation be paid in good time;
    - **convertibility**, by taking every measure guaranteeing free convertibility and transfer of money proceeding from foreign investments, vis-à-vis earned profits, dividends, fees, royalties, emoluments, payments for loans, liquidity funds, ensuring that this operation is exercised within reasonable time.
    - **entry and sojourn of key members**, by ensuring that key personnel will be able to enter and remain in the respective country in order to engage in activities connected with the development, management, maintenance, use, enjoyment or

disposal of relevant investments, including the provision of advice or key technical services;

- **elimination of restrictions for exporting capital**, by agreeing to work towards eliminating all restrictions for export of investments and profits earned thereby;
  - **investor's conduct**, by ensuring that a foreign investor will like indigenous competitors observe laws, administrative rules and procedures of the recipient country;
  - **settlement of disputes**, by agreeing that disputes connected with foreign investments (both investor-to-state and state-to-state) could be resolved in short time by way of consultations and negotiations between the sides involved or, if they will fail to come to terms, through procedures as envisaged by international obligations and commitments of the BSEC Participating States or via any other means acceptable to the parties involved;
- e. **to harmonise** national legislation in accordance with the Agreement on Trade-Related Investment Measures and all other agreements of the WTO, as well as the relevant recommendations of the OECD and the IMF;
  - f. **to examine** the possibility to launch negotiations on a multilateral agreement on investment with high standards of liberalisation and investment protection;
  - g. **to take into account**, in all relevant legislation and regulations, the political, social and cultural sensitivities of the BSEC countries;
  - h. **to address** environmental protection and labour issues, including a strong commitment by governments not to lower environmental or labour standards in order to attract or retain investments;
  - i. **to institutionalise** dialogue with representatives of business, labour, and other non-governmental organisations in matters pertaining to foreign investment.
  - j. **to simplify** business registration and licensing procedures, to clearly define the sectors barred to foreign investment, and to create transparent harmonised criteria for eligibility of tax incentives;
  - k. **to apply** harmonised rules to all investments related to financial services, including banking, securities and insurance activities, and also of information transfer and data processing;
  - l. **to deal** with taxation matters, including disciplines on expropriation and transparency, without interfering with the ability of governments to take measures to prevent tax avoidance or evasion;
  - m. **to give** due consideration in measures protecting essential security interests, for example temporary safeguard provisions in the event of serious balance of payments and external financial difficulties or where capital movements cause serious difficulties for monetary or exchange rate policies;
  - n. **to ensure** the involvement of the Black Sea Trade and Development Bank and the BSEC Business Council in all multilateral efforts aiming at investment promotion and protection.

**3. The Parliamentary Assembly invites** the BSEC Council of the Ministers of Foreign Affairs to consider this Recommendation.