

# Convention on the Protection of Investor Rights

The States Parties to this Convention, hereinafter referred to as Parties,

Considering the effective protection of investors' rights essential to the development of the economy,

Promoting investment in the national economy of the Parties,

Guided by the Treaty establishing the Economic Union of 24 September 1993,

The development of the Agreement on cooperation in the field of investment activities of 24 December 1993,

Striving to create a common investment space and a coherent approach to the issues related to the involvement of investment,

Have agreed as follows:

## Part I. General Provisions

### Article 1. Key Terms

For the purposes of this Convention, the following terms are used:

Investor - state, legal or natural person carrying out investment of own, borrowed or raised funds in the form of investments;

Investment - financial and material resources invested by an investor in various objects of activity, as well as transferred rights to property and intellectual property for the purpose of obtaining profit (income) or achieving social effect, if they are not withdrawn from circulation or are not limited in circulation in accordance with the Parties national legislation;

Country of origin of investment - the state in whose territory the investor is registered - a legal entity or whose citizen the investor is;

Recipient Country - the State on whose territory the object of investment;

Property right - the right of ownership, use and disposition of property.

### Article 2. Scope of the Convention

This Convention defines the legal basis for the implementation of various types of investments registered in the territory of the Parties, and guarantees for the rights of investors to make investments and the income derived from them.

The norms and rules defined by this Convention shall apply in the event that legal entities of two or more states participate in the investment process.

Regulation of issues related to the activities of the investor and the protection of his rights is carried out by the authorized state bodies of the recipient country.

The functions of coordination of issues related to the operation of this Convention by the bodies of the Commonwealth of Independent States are carried out by the Interstate Economic Committee of the Economic Union (hereinafter - IEC).

### Article 3. Investors

Investors may be state, juridical and physical persons of both Parties and third countries, unless otherwise provided by national legislation of the Parties.

## **Article 4. Forms of Investment**

The investor has the right to make investments by any methods not prohibited by the legislation of the recipient country.

The party as the recipient country has the right to examination of investment projects for environmental compliance, antitrust and other requirements.

## **Article 5. Legal Framework of Investments and Guarantees Against Legislative Changes**

The conditions for making investments, as well as the legal regime for the activities of investors in connection with the investments made, cannot be less favorable than the conditions for making investments and the mode of activities associated with them for legal entities and individuals of the recipient country, with the exception of exemptions that may be established by the national legislation of the recipient country.

The parties are entitled to review the list of exemptions. In such cases, they inform the IEC of these changes.

The parties have the right to determine priority lists in relation to industries, types of activity and regions for which more favorable conditions for attracting investments are introduced.

In the event that, after the entry into force of this Convention, the Parties will amend the legislative norms relating to investments, which, in the opinion of one or more interested Parties, worsen the conditions and regime of investment activity, this issue may be submitted to the Economic Court of the Commonwealth of Independent States and / or other international courts or international arbitration courts.

When the said courts make a decision confirming the deterioration of the conditions and regime of investment activity, the effect of the mentioned legislative norms is suspended from the moment of their adoption (that is, such conditions and regime are preserved as if these norms were not adopted) and resumes from the expiration of a five-year period from the date of the decision, subject to and to the extent not inconsistent with this Convention. This provision does not apply to changes in legislation relating to defense, national security, public order protection, the environment, morality and public health, taxation, as well as to the list of exemptions.

## **Article 6. Lists of Exceptions and Priorities of Recipient Countries**

The list of exemptions contains the names of industries, enterprises, organizations which, in accordance with the national legislation of the Parties, are not subject to privatization, corporatization, or other forms of privatization of property.

The list of priorities sets the industries, enterprises, organizations, activities and regions for which preferential conditions for attracting investments are introduced.

Lists of exemptions and priorities are subject to publication in the official publications of the Parties and the IEC.

# **Part II. State Guarantees of Protection of Investments**

## **Article 7. Legal Regulation of Investment Activities**

Activities connected with the implementation of investment and investor activity in connection with them are governed by the present Convention, the national legislation of the Parties, as well as international treaties to which they are parties.

## **Article 8. Legal Protection of Investments**

Investments in the territory of the Parties are provided with unconditional legal protection, which is provided by this Convention, the national legislation of the Parties, as well as international treaties to which they are parties.

## **Article 9. Guarantees of Protection of Investments from Nationalization, Requisition, from Decisions and Actions (inaction) of State Bodies and Officials Infringing on Investor Rights**

Investments are not subject to nationalization and cannot be requisitioned, except in exceptional cases (natural disasters, accidents, epidemics, epizootics and other circumstances of an extraordinary nature) provided for by the national legislation of the Parties when these measures are taken in the public interest provided for by the Basic Law (Constitution) of the

recipient country. Nationalization or requisition cannot be carried out without adequate compensation being paid to the investor.

Decisions on the nationalization or requisition of investments are made in the manner prescribed by the national legislation of the recipient country.

Decisions of state bodies on nationalization or requisition of investments may be appealed in the manner established by the national legislation of the recipient country.

The investor has the right to compensation for damage caused to him by decisions and actions (inaction) of state bodies or officials that contradict the laws of the recipient country and the norms of international law.

## **Article 10. Compensation for Damage to Investors**

Compensation for damage to the investor is paid in the currency in which the investment was made. The procedure for determining the amount of compensation and its payment shall be established by the national legislation of the recipient country.

Compensation for damage in the case referred to in the fourth part of Article 9 of this Convention is carried out in accordance with the laws of the national legislation of the recipient country.

## **Article 11. Procedure for the Settlement of Disputes Arising In Connection with Investments**

Investment disputes under this Convention shall be adjudicated by the courts or arbitration courts of the countries party to the disputes, the Economic Court of the Commonwealth of Independent States and / or other international courts or international arbitration courts.

## **Article 12. Transfer of Funds Guarantee**

After paying taxes and fees on income received in cash from previously made investments, in accordance with the national legislation of the recipient country - a party to the Convention, the investor is guaranteed:

The use of income in the currency of the country of origin of the investment and / or the currency of the recipient country for investment and reinvestment purposes, as well as for the purchase of goods in the territory of the recipient country;

Use of income in the currency of the recipient country for the purchase of another currency of the Parties in the domestic foreign exchange market of the recipient country;

Unhindered transfer of income to any country at the discretion of the investor.

After paying taxes and fees on income received in kind from previously made investments, in accordance with the legislation of the recipient country, a party to the Convention, the investor is guaranteed:

The use of these incomes for investment and reinvestment in the territory of the recipient country;

Export of goods outside the customs territory of the recipient country in the manner prescribed by the legislation of the recipient country, taking into account the provisions of this Convention and international treaties of the recipient country.

The transfer of funds in accordance with the provisions of this Convention is carried out at the official exchange rate in force in the recipient country on the date of transfer.

The recipient country may restrict the application of legislation on the transfer of income from investments made to the countries of origin of these investments or other countries in cases involving bankruptcy, insolvency, and the protection of creditor rights.

## **Article 13. Insurance of Property and Risks**

Insurance of property and risks of enterprises with investments of the Parties shall be in accordance with the legislation of the recipient country

# **Part III. Acquisition of Investor Shares and other**

# **Securities. Investor Participation In Privatization**

## **Article 14. Acquisition of Shares and other Securities**

The investor shall be entitled to acquire shares and other securities of business entities and other issuers, including Government securities, in accordance with the legislation of the recipient country.

Shares and other securities traded on the stock market of the recipient country may be acquired by the investor with the payment in the currency of the recipient country or in another currency if the legislation of the recipient country does not provide otherwise.

## **Article 15. Participation of Investors In Privatization, and Protection of Their Rights**

An investor may participate in the privatization of objects owned by state and municipal property on the terms and in the manner determined by the legislation of the recipient country.

The cancellation of the decision on the privatization of an object, as well as a change in the procedure and method of privatization if an investor took part in the privatization of the object, as well as the termination of privatization transactions, can be carried out in court.

## **Article 16. Information to Support the Privatization Process**

The parties undertake to inform each other during the privatization on the following issues:

On the nature of privatization;

On the progress of privatization, including auctions, tenders, the place and time of their holding, on privatized enterprises; about plans - schedules for auctions, competitions;

On the procedure for acquiring shares of privatized enterprises;

On the progress of the sale of privatization objects;

About the most significant objects offered for sale;

About upcoming sales of privatization facilities.

## **Article 17. Registration of Property Rights In the Privatized Property**

The acquisition of state and municipal property during the privatization process is carried out on the basis of purchase and sale agreements concluded between the investor and the person acting as the seller of the privatized property.

Purchase and sale agreements on shares of privatized enterprises are subject to registration in the manner determined by the legislation of the recipient country.

A different procedure for the acquisition of state and municipal property during the privatization process is not allowed.

# **Part IV. Investor Acquisition of Real Rights to the Land, other Natural Resources and other Property Rights**

## **Article 18. Real Rights to Land and other Natural Resources**

Investors Acquiring property rights to land, natural resources and real estate is carried out in accordance with the legislation of the country - recipient.

## **Article 19. Concession Agreements, Production Sharing Agreements Concluded with Foreign Investors**

Granting to the investor the rights to use natural resources and carry out activities related to the state monopoly of the recipient country, as well as entrepreneurial rights related to the use of objects owned by the state of the recipient country, is carried out in accordance with concession agreements, production sharing agreements, concluded in the manner prescribed by the legislation of the recipient country.

## **Article 20. Provision of Property for Rent**

The leasing to the investor of property of citizens and legal entities of the recipient country, the state property of the country of the recipient and leasing by the investor of their property located in the territory of the recipient country, as well as the termination of such contractual relations are carried out in the manner and on the conditions established by the legislation of the recipient country.

# **Part V. Final Provisions**

## **Article 21. Relationship of the Convention with International Treaties**

The provisions of this Convention shall not affect the provisions of other international treaties to which the Parties are parties.

## **Article 22. Bilateral Agreements**

This Convention may be the basis for the conclusion by the Parties of bilateral agreements protecting the rights of the investor. If necessary, certain provisions of the Convention may be specified in bilateral agreements.

## **Article 23. Procedure for the Entry Into Force of the Convention**

This Convention is subject to ratification by the signatory Parties in accordance with their domestic procedures and shall enter into force on the 30th day after the date of deposit of the third instrument of ratification. For Parties that have ratified subsequently, the Convention shall enter into force on the 30th day after the date of the deposit of its instrument of ratification to the depositary.

## **Article 24. Duration of the Convention**

The present Convention shall be valid for 10 years from the date of its entry into force. After this period the Convention shall be automatically renewed each time a new 10-year period, unless the Parties decide otherwise.

For the purposes of settling possible disputes and claims, including the nature of the material, the provisions of this Convention shall continue to apply to the Party published until full settlement of all contentious issues.

## **Article 25. Procedure for Accession to the Convention**

This Convention shall, after its entry into force may accede to the consent of all other States Parties through the transfer of such accession have been deposited with the depositary. Joining deemed to have entered into force after 30 days from the date of receipt by the Depositary of the last notification on the consent of the Parties to such accession.

## **Article 26. Denouncing the Convention**

Procedure for withdrawing from the Convention Each Party may withdraw from this Convention by sending written notification of this to the depositary no later than 12 months prior to withdrawal.

## **Article 27. Procedure for Amending and Supplementing the Convention**

By mutual agreement of the Parties, this Convention may be amended and supplemented.

## **Article 28. Settlement of Disputes Related to the Interpretation of the Convention**

Contentious issues relating to the interpretation of this Convention shall be resolved through consultation or treatment of Parties to the Economic Court of the Commonwealth of Independent States.

Done in Moscow on 28 March 1997 in one original copy in Russian. The original copy is kept in the Executive Secretariat of the Commonwealth of Independent States which will send each state signed this Convention its attested copy.

(Signatures)

**Particular opinion of the Republic of Armenia to the Convention on the Protection of the Rights of the Investor**

1. In article 10, at the end of the first sentence, it is necessary to add the words: "or in another currency, if the Parties agree to it."

2. Article 11 shall be stated in the following wording: "Within the framework of this Convention, disputes arising between the country of origin of the investment and the recipient country shall be resolved according to the legislation of the recipient country, unless another procedure is stipulated between the Parties according to a bilateral agreement on the protection of investments."

3. The first paragraph of Article 16 shall have the following wording: "When making privatization the Parties shall exchange the following information" and further on as stated in the text.