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**Republic of Moldova**

**MINISTRY OF FOREIGN AFFAIRS**

**AGREEMENT**

**Nr. 1997**

**From**

**28.11.1997**

**Between the Government of the Republic of Moldova and the  
Government of Georgia**

**On the promotion and reciprocal protection of investments \***

**Published:**

**30.12.1999 in the International Treaties no. 2. 3**

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**Signed at Tbilisi on 28 November 1997.**

## **In force since 25 February 1999.**

The Government of the Republic of Moldova and the Government of Georgia, hereinafter referred to as "the Parties"

Wishing to intensify long-term economic cooperation for the mutual benefit of both Parties,

Intending to create and maintain favorable conditions for the investors of one Party in the territory of the other Party,

Recognizing that the promotion and reciprocal protection of investments under this Agreement will stimulate constructive initiatives in this area,

Have agreed on the following:

### **Article 1. Definitions**

For the purposes of this Agreement:

1) The term investment includes any type of assets invested in accordance with the economic activity of the investor of a Party in the territory of the other Party in accordance with the legislation in force in the latter, and includes in particular but not exclusively:

A) movable and immovable property, as well as other property rights, such as: mortgages, property maintenance rights in respect of debts, pledge and other similar rights;

B) shares, securities and debt securities of legal persons or the property of such legal persons;

C) loans, credits, bank and financial deposits with a specific destination related to the investment;

D) intellectual property rights, including copyrights, trade marks, patents, industrial samples, technological processes, know-how, trade secrets, trade names and goodwill related to an investment;

Any change in the forms of investment of assets does not affect their investment character.

2) The term investor means any natural or legal person who invests in the territory of the other Party:

(A) the term "natural person" means any natural person who holds the nationality or dwells permanently in the territory of any Party in accordance with its laws;

(B) the term "legal person" means, in respect of any Party, any institution, enterprise or organization founded in accordance with the law in force in the State of each Party and entitled to make investments in the territory of the other Party.

3) The term benefit denotes the amounts received as a result of an investment and includes, but is not limited to: profits, interest, capital gains, shares, dividends, royalties and payments for the provision of services.

4) The term "territory" means, in respect of each Party, the territory over which the Party exercises its sovereignty, as well as the maritime and submarine areas to which that Party exercises its sovereign rights and jurisdiction in accordance with national law and international law.

### **Article 2. Application of this Agreement**

The terms of this Agreement shall apply to all investments made by investors of one Party in the territory of the other Party, until and after the entry into force of this Agreement.

### **Article 3. Promotion and Protection of Investments**

1) Each Party shall stimulate its territory and create favorable conditions for the investments of the other Party for investment and shall admit the investments concerned in accordance with its own laws and regulations.

2) The investments of investors of any Party will benefit from a fair and just attitude, full protection and security on the

territory of the other Party.

## **Article 4. The Most-favored-nation and Most-favored-nation Clauses**

(1) Each Party shall grant in its territory to the investors of the other Party a fair and equitable regime and not less favorable than that accorded to investments of its own investors or investments of investors of any third country.

2) Each Party shall grant to its investors the other Party with regard to the management, maintenance, use, use, receipt and disposal of their investments, a fair and equitable regime and no less favorable than that accorded to its own investors or investors Any third country.

3) The provisions of points 1) and 2) of this Article shall not be construed so as to oblige a Party to extend to the investors of the other Party the benefit of any regime, preference or privilege which may be extended by the latter Party arising from:

(A) any customs union or free trade area or similar international arrangements affecting the investment cooperation regime or other forms of regional cooperation in which one of the Parties is or may become a signatory;

(B) any international agreement or understanding relating, in whole or in part, to taxation.

## **Article 5. Compensation for Losses**

1) In the event that the investors of any Party suffer losses following war, armed conflict, exceptional national situations, coup d'etat, insurrection, plot, natural calamities, accidents or other similar events in the Party where the investments were made, The Party concerned shall grant to them, in respect of restitution, indemnification, compensation or other disbursement, a regime no less favorable than that granted by that Party to its own investors or investors of any third State.

2. Without prejudice to paragraph 1 of this Article, investors of a Party who, in any event referred to in this paragraph, suffers losses in the territory of another Party resulting from:

A) the requisition and destruction of their property by its forces and authorities;

B) the destruction of their property by its forces and authorities, which have not been caused by combat or by the necessities of the situation, will be granted fair and appropriate compensation for the losses incurred during the requisition period or as a result of the destruction of the property their.

Payments that appear will be transferable in freely convertible currency without delay.

## **Article 6. Expropriation**

(1) Investments of investors of any Party shall not be nationalized, expropriated or subject to measures equivalent to nationalization or expropriation (further expropriation) in the territory of the other Party, except as provided in the laws of the Parties.

Expropriation shall be carried out in accordance with the judicial procedure in a non-discriminatory manner against prompt, appropriate and effective compensation. The compensation in question will amount to the market value of the investments expropriated directly at the time of expropriation or when the risk of expropriation becomes public, will include interest on the date of expropriation according to LIBOR, will be paid in the currency in which the investment was made or, Of the Parties in any other currency acceptable to the investor shall be made without delay, shall be effectively realizable and freely transferable.

2) The affected investor will be entitled to an immediate review of his case by the judicial bodies of the Party and an appreciation of his investments in accordance with the principles stated in this Article.

3) The provisions of paragraph 1 of this Article shall also be applied when a Party expropriates the assets of a company which has been incorporated into a joint stock company or is constituted under the laws in force in any part of its territory and in which Investors of the other Party have quotas.

## **Article 7. Transfers**

1) The parties will guarantee the transfer of payments related to investments and benefits, in accordance with the laws in force of the Parties. Transfers will be made without any restrictions or delays. These transfers will include, but are not limited to:

- A) capital and additional amounts to maintain or increase investments;
  - B) profits, interest, dividends and other current income;
  - C) payments made in accordance with investment credit agreements;
  - D) royalties or payment for services;
  - E) profits from the sale or liquidation, partial or total, of the investments, from the capital increase;
  - F) salaries of natural persons, in accordance with the laws and regulations of the Parties, received by them in connection with the investment in the territory of this Party.
- 2) For the purposes of this Agreement, the official rates in force for current transactions at the date of transfer shall be used unless otherwise agreed.

## **Article 8. Subrogation**

1. If a Party or its intermediary makes payments to its own investors under a guarantee it has given in connection with an investment in the territory of the other Party, the latter Party shall recognize:

- A) the transmission, under a law or a legal agreement in that country, of any right or claim of the investor to the first Party or its designated intermediary, and the fact that
- B) the first Party or its designated intermediary has been subrogated by the right to exercise the rights and to submit the claims of the investor concerned and to assume the obligations relating to that investment.

2) The rights or claims arising from subrogation shall not exceed the original rights or claims of the investor.

## **Article 9.**

"Disputes between the Investor of a

Parties and the other Party

1. Any dispute that may arise between an investor of one Party and the other Party in connection with an investment in the territory of this Party shall be the subject of negotiations between the parties to the dispute.

2) If any dispute between an investor of one Party and the other Party can not be resolved within six months of the date of the submission of the written request, the investor shall be entitled to submit the case in question for consideration:

- (A) a judicial organ of the Party in whose territory the investment is made, or
- B) International Settlement of Investment Disputes Center (ICSID), having regard to the conditions applicable to the "Dispute Settlement Intervention Agreement between States and the Citizens of Other States", opened for signature in Washington D.
- C. Of March 18, 1965, if both Parties have acceded to this Convention, or
- C) an arbitrator or international arbitration tribunal, formed in accordance with the Rules of Arbitration Procedure of the United Nations Commission on International Trade Law (UNCITRAL).

Judgments of the Arbitration Tribunal will be final and binding on both parties to the dispute.

## **Article 10.**

"Settlement of disputes between the Contracting Parties

1) Disputes between the Parties concerning the interpretation or application of this Agreement shall, if possible, be settled through mutual consultations or negotiations.

2. If the dispute can not be settled within six months at the request of either Party, it shall, in accordance with the provisions of this Agreement, be referred to a Court of Arbitration.

3) The arbitration tribunal shall be constituted, in each case, as follows: Within two months of receipt of the written request for arbitration examination, each Party shall designate a member of the Tribunal of Arbitrators who shall elect a citizen Of a

third State, to be named after the approval of the Parties as President of the Tribunal (hereafter "the President"). The President must be appointed within three months of the date of the appointment of the other two members.

4. If, during any period specified in paragraph 3 of this Article, the necessary designations are not carried out, each Party may, in the absence of any other agreement, invite the President of the International Tribunal of the United Nations for the necessary designations. If it is found that he or she holds the citizenship of one of the Parties or if there are other reasons preventing the performance of the said post, he shall be invited to make the necessary appointments. If it is found that the Vice-President holds the nationality of one of the Parties or is unable to perform such a function, the following Member of the International Tribunal (UN) shall be called upon to make the appointments in a hierarchical order which does not hold the nationality of one of the Parties and, Without obstacles, to perform the given function.

5) The Arbitration Tribunal will take decisions by majority vote. These decisions will be binding on each Party. Each Party shall bear the costs of its members of the Tribunal and its representation in the arbitral tribunal; Expenses related to the President, as well as other expenses will be borne equally. The Arbitration Tribunal will determine its own procedure and may, by its own decision, determine which Party shall bear a higher proportion of expenses.

## **Article 11.**

"Application of other rules and special commitments

1. If the subject matter is governed concurrently by this Agreement and by another International Agreement to which both Parties are signatories, nothing in this Agreement shall prevent the Parties or any investor thereof making investments in the territory of the other Party from taking advantage of those rules, Which are more favorable in their case.

2) If the regime, which is to be granted by a Party to investors of the other Party in accordance with its own laws or regulations or other special contractual provisions, is more favorable than that granted by this Agreement, the most favorable regime shall be accorded.

## **Article 12. Introduction of Amendments and Additions**

Amendments and additions may be introduced in this Agreement by written agreement between the Parties. Any rectification shall enter into force when one Party notifies the other Party that it has completed all existing formalities which prevent the entry into force of such rectification.

## **Article 13.**

"Entry into force, duration and cessation

Of the Agreement

(1) This Agreement shall enter into force on the date of the last written notification of the completion by the Parties of their internal procedures for its entry into force.

2) This Agreement will be valid for a period of ten years. Its action will be automatically extended for subsequent periods of five years if neither Party notifies the other Contracting Party of its intention to terminate this Agreement not less than six months before the expiration of that period.

3) For investments made before the termination of this Agreement, its provisions will continue to apply for a period of five years from the date of termination of its action.

Done at Tbilisi, on 28 November 1997, in two original copies, each in the Moldovan, Georgian and Russian languages, all texts having the same legal force.

In the event of any dispute of interpretation of the provisions of this Agreement, the Parties shall be guided by the text in Russian.