AGREEMENT BETWEEN THE KYRGYZ REPUBLIC AND THE ITALIAN REPUBLIC FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

The Kyrgyz Republic and the Italian Republic hereafter referred to as the "Parties",

DESIRING to establish favourable conditions to enhance economic co-operation between the two Countries, especially in relation to direct investments by investors of one Party in the territory of the other Party;

RECOGNISING the importance of strengthening their investment relations, in accordance with the objective of sustainable development in the economic, social and environmental dimensions, and of promoting investment between them, mindful of the needs of the business communities of each Party, in particular small and medium-sized enterprises, and of high levels of environmental and labour protection through relevant internationally recognised standards and international agreements, to which both Parties are parties;

REAFFIRMING their commitment to the principles of sustainable development and transparency;

SEEKING to establish an investment framework based on mutually advantageous rules to govern investment between the Parties that would enhance the competitiveness of their economies, make their markets more efficient and vibrant, and ensure predictable legal environment for further expansion of investment between them;

REAFFIRMING their commitment to the Charter of the United Nations and having regard to the principles articulated in the Universal Declaration of Human Rights;

ACKNOWLEDGING that the mutual encouragement and protection of investments based on international agreements will contribute to stimulate economic relations that will foster the prosperity of both Parties;

ENCOURAGING enterprises operating within their territory or subject to their jurisdiction to respect internationally recognised guidelines and principles of corporate social responsibility, including the OECD Guidelines for Multinational Enterprises, and to pursue best practices of responsible business conduct;

RECOGNIZING the importance to promote equal opportunities and participation for women and men in the economy;

WILLING to duly protect the intellectual property rights of their investors and

RECOGNISING that the provisions of this Agreement preserve the right of the Parties to regulate within their territories in order to achieve legitimate public policy objectives, such as public health, safety, environment, public morals, financial stability, social or consumer protection, and the promotion and protection of cultural diversity;

HAVE AGREED AS FOLLOWS:

Section 1. OBJECTIVES, SCOPE AND DEFINITIONS

Article 1. Objectives

The objective of this Agreement is to enhance the investment climate between the Parties, in accordance with the following provisions.

Article 2. Definitions

For the purpose of this Agreement:

"covered investment" means an investment in the territory of a Party owned or controlled, directly or indirectly, by an investor of the other Party, made in accordance with the applicable law before or after the date of entry into force of this Agreement;

"investment" means every kind of asset that has the characteristics of an investment, including such characteristics as a certain duration, the commitment of capital or other resources, the assumption of risk, or the expectation of gain or profit. Forms that an investment may take include:

(a) an enterprise;

(b) shares, stocks and other forms of equity participation in an enterprise;

(c) bonds, debentures, loans and other financial instruments of an enterprise;

(d) interests arising from:

i) concessions conferred pursuant to domestic law or under a contract, including to search for, cultivate, extract or exploit natural resources,

ii) turnkey, construction, production, or revenue-sharing contracts, or other similar contracts;

(e) intellectual property rights;

(f) claims to money or claims to performance under a contract;

(g) reinvested returns;

(h) any other moveable or immovable, tangible or intangible property, and related rights.

Any alteration of the form in which assets are invested or reinvested shall not affect their qualification as investments, provided that the form taken by the investment or reinvestment maintains its compliance with the definition of investment.

For greater certainty:

(a) "claims to money" does not include claims to money that arise solely from commercial transactions for the sale of goods or services by a natural person or an enterprise in the territory of a Party to a natural person or an enterprise in the territory of the other Party, or the extension of credit in relation to such transactions; and

(b) an order or judgment entered in a judicial or administrative action or an arbitral award shall not in itself constitute an investment.

"territory" means the part of a land area, internal and territorial waters, air space above them, the sea area outside the territorial waters, including the seabed and subsoil on which the Party exercises sovereign rights, and subject to its jurisdiction, according to international law;

"freely convertible currency" means a currency that can be freely exchanged against currencies that are widely traded in international foreign exchange markets and widely used in international transactions;

"investor of a Party" means:

(a) a natural person of a Party; or

(b) a juridical person of a Party duly constituted or otherwise organised under the applicable law of a Party, and engaged in substantive business operations in the territory of a Party,

that has made a covered investment in the territory of the other Party.

"juridical person" means any entity constituted or organized under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, and includes a corporation, trust, partnership, sole proprietorship, joint venture, association, or other organization;

"control" means, in relation to any juridical person, being:

(a) entitled to exercise, or control the exercise of (directly or indirectly) more than 50 per cent of the voting power at any general meeting of the shareholders, members or partners or other equity holders (and including, in the case of a limited partnership, of the limited partners of, or, in the case of a trust, of the beneficiaries thereof) in respect of all or substantially all matters falling to be decided by resolution or meeting of such persons; or

(b) entitled to appoint or remove:

(i) directors on the board of directors or its other governing body (or, in the case of a limited partnership, of the board or

other governing body of its general partner) who are able (in aggregate) to exercise more than 50 per cent of the voting power at meetings of that board or governing body in respect of all or substantially all matters; and/or

(ii) any managing member of that undertaking;

(iii) in the case of a limited partnership, its general partner; or

(iv) in the case of a trust, its trustee and/or manager; or

(c) entitled to exercise a dominant influence over that juridical person (otherwise than solely as a fiduciary) by virtue of the provisions contained in its constitutional documents or, in the case of a trust, trust deed or pursuant to an agreement with other shareholders, partners, members (or beneficiaries) of that juridical person;

"measure"means any measure affecting an investment, whether in form of a law, regulation, rule, procedure, decision, practice, administrative action, or any other form, including failure to act.

"operation" means conduct, management, maintenance, use, enjoyment and sale or other form of disposal of an investment;

"returns" means any amounts yielded by or derived from an investment or reinvestment, including profits, dividends, capital gains, royalties, interest, revenues from intellectual property rights, returns in kind and other lawful income.

Article 3. Scope

This Agreement shall apply to:

(a) covered investments;

(b) investors of a Party in respect of a covered investment, as regards any measure adopted or maintained by a Party affecting the operation of such investment.

For greater certainty, this Agreement provides only post-establishment protection and does not cover the pre-establishment phase or matters of market access.

Section 2. PROMOTION, PROTECTION AND TREATMENT OF THE INVESTMENTS

Article 4. Treatment of Investors and of Covered Investments

1. Each Party shall accord in its territory to covered investments and to investors of the other Party with respect to their covered investments fair and equitable treatment and full protection and security in accordance with paragraphs 2 to 5 of this Article.

2. A Party breaches the obligation of fair and equitable treatment referenced in paragraph 1 through measures or series or measures that constitute:

(a) denial of justice in criminal, civil or administrative proceedings; or

(b) fundamental breach of due process, including a fundamental breach of transparency in judicial and administrative proceedings; or

(c) manifest arbitrariness; or

(d) targeted discrimination on manifestly wrongful grounds, such as gender, race or religious belief; or

(e) abusive treatment such as harassment, duress or coercion.

3. When applying the above fair and equitable treatment obligation, a tribunal may take into account whether a Party made a specific representation to an investor to induce a covered investment, that created a legitimate expectation, upon which the investor relied in deciding to make or maintain the covered investment, but that the Party subsequently frustrated.

4. For greater certainty, "full protection and security" refers to the Party's obligations to ensure the physical security of investors and covered investments.

5. For greater certainty, a breach of another provision of this Agreement, or of any other international agreement, does not constitute a breach of this Article.

Article 5. Non-discriminatory Treatment

1. Each Party shall accord to investors of the other Party and to covered investments treatment no less favourable than that it accords, in like situations, to its own investors and to their investments, with respect to operation in its the territory.

2. Each Party shall accord to investors of the other Party and to covered investments treatment no less favourable than that it accords, in like situations, to investors of a third country and to their investments, with respect to operation in its territory.

3. Subject to the requirement that such measures are not applied in a manner that would constitute arbitrary or unjustifiable discrimination between investments or between investors of the Party, Article 5 (Non-Discriminatory Treatment) and paragraphs 1 and 2 of Article 9 (Transfers) shall not be construed to prevent a Party from adopting or enforcing measures necessary:

(a) to protect public security or public morals or to maintain public order;

(b) to protect human, animal or plant life or health;

(c) to ensure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of persona data and the protection of confidentiality of individual records and accounts;

(iii) safety.

4. Paragraph 2 shall not be construed as obliging a Party to extend to investors of the other Party or to covered investment the benefit of any treatment resulting from:

(a) an international agreement for the avoidance of double taxation or other international agreement or arrangement relating wholly or mainly to taxation; or

(b) measures providing for recognition, including of the standards or criteria for the authorisation, licencing, or certification of a natural person or enterprise to carry out an economic activity, or of prudential measures.

5. For greater certainty, the ?treatment? referred to in paragraph 2 does not include dispute settlement procedures provided for in other international agreements.

6. For greater certainty, substantive provisions in other international agreements concluded by a Party with a third country do not in themselves constitute the "treatment" referred to in paragraph 2. Measures of a Party pursuant to those provisions may constitute such treatment and thus give rise to a breach of this Article.

Article 6. Investment and Regulatory Measures

1. The Parties reaffirm the right to regulate within their territories to achieve legitimate policy objectives, such as the protection of public health, social services, public education, safety, the environment including climate change, public morals, social or consumer protection, privacy and data protection, or the promotion and protection of cultural diversity.

2. For greater certainty, the provisions of this Agreement shall not be interpreted as a commitment from a Party that it will not change the legal and regulatory framework, including in a manner that may negatively affect the operation of covered investments or the investor?s expectations of profits of the other Party.

3. For greater certainty and subject to paragraph 4, a Party?s decision not to issue, renew or maintain a subsidy

(a) in the absence of any specific commitment under law or contract to issue, renew, or maintain that subsidy; or

(b) in accordance with any terms or conditions attached to the issuance, renewal or maintenance of the subsidy,

shall not constitute a breach of the provisions of this Agreement.

4. For greater certainty, nothing in this Agreement shall be construed as preventing a Party from discontinuing the granting

of a subsidy or requesting its reimbursement, where such action has been ordered by the competent authorities, or as requiring that Party to compensate the investor therefor.

Article 7. Compensation for Losses

1. Investors of a Party whose covered investments suffer damages or losses owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot in the territory of the other Party shall be accorded by that Party, with respect to restitution, indemnification, compensation or other form of settlement, treatment no less favourable than that accorded by that Party to its own investors or to the investors of any non-Party of this Agreement, whichever is more favourable to the investor.

2. Without prejudice to paragraph 1 of this Article, investors of a Party who, in any of the situations referred to in that paragraph, suffer losses in the territory of the other Party shall be accorded prompt, adequate and effective restitution or compensation by the other Party, if these losses result from:

(a) requisitioning of their covered investment or a part thereof by the latter's armed forces or authorities; or

(b) destruction of their covered investment or a part thereof by the latter's armed forces or authorities, which was not required by the necessity of the situation.

3. The amount of such compensation shall be determined in accordance with the provisions of paragraph 2 of Article 8, from the date of requisitioning or destruction until the date of actual payment.

Article 8. Expropriation

1. Neither Party shall nationalise or expropriate a covered investment either directly or indirectly through measures having an effect equivalent to nationalisation or expropriation (hereinafter referred to as "expropriation") except:

(a) for a public purpose;

(b) under due process of law;

(c) in a non-discriminatory manner; and

(d) against payment of prompt, adequate and effective compensation.

For greater certainty, this paragraph shall be interpreted in accordance with Annex II (Expropriation).

2. The compensation referred to in paragraph 1 shall amount to the fair market value of the investment at the time immediately before the expropriation or the impending expropriation became publicly known or when the expropriation took place, whichever is earlier. Valuation criteria shall include going concern value, asset value including the declared tax value of tangible property, and other criteria, as appropriate.

3. The compensation shall include interest at a normal commercial rate from the date of expropriation until the date of payment. It shall be freely transferable in accordance with Article 9 paragraph 1 letter f).

4. The investor affected by the expropriation shall have a right, under the law of the expropriating Party, to prompt review of its claim and of the valuation of its investment, by a judicial or other independent authority of that Party, in accordance with the principles set out in this Article.

5. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights, to the extent that such issuance is consistent with the Agreement on Trade-Related Aspects of Intellectual Property Rights in Annex 1C to the WTO Agreements (?TR=PS Agreement?).

Article 9. Transfers

1. The Parties shall permit the free transfer of payments related to investments and returns. The transfers shall be made in a freely convertible currency or in precious metals and in accordance with the national laws and regulations of the Parties where investments were made without any restriction and undue delay. Such transfers include:

(a) contributions to capital to maintain, develop or increase the investment;

(b) profits, dividends, capital gains, interest, royalty payments, management fees, technical assistance and other fees or returns derived from the covered investment;

(c) proceeds from the sale of all or any part of the investment or from the partial or complete liquidation of the investment;

(d) payments made under a contract entered into by the investor of the Party, or its covered investment, including payments made pursuant to a loan agreement;

(e) earnings and other remuneration of personnel engaged from abroad and working in connection with an investment;

(f) payments made pursuant to Articles (Compensation for Losses) and 8 (Expropriation);

(g) payments of damages pursuant to an award issued by an Arbitral Tribunal or pursuant to a decision of a competent court of a Party under Article 22.

2. Neither Party may require its investors to transfer, or penalise its investors for failing to transfer, the income, earnings, profits or other amounts derived from, or attributable to, their covered investments in the territory of the other Party.

3. Notwithstanding paragraphs 1 and 2, this Article shall not be construed as preventing a Party from applying in an equitable and non-discriminatory manner, and not in a way that would constitute a disguised restriction on trade and investment, its laws and regulations relating to:

(a) bankruptcy, insolvency, bank recovery and resolution, or the protection of the rights of creditors;

(b) issuing, trading, or dealing in financial instruments;

(c) financial reporting or record keeping of transfers where necessary to assist law enforcement or financial regulatory authorities;

(d) criminal or penal offenses, deceptive or fraudulent practices;

(e) ensuring compliance with orders or judgments in judicial or administrative proceedings;

(f) social security, public retirement or compulsory savings schemes.

Article 10. Subrogation

If a Party, or an agency thereof, makes a payment under an indemnity, guarantee or contract of insurance it has entered into in respect of a covered investment made by one of its investors in the territory of the other Party:

a) the other Party shall recognize that the Party or its agency shall be entitled in all circumstances to the same rights under this Agreement as those of the investor in respect of the covered investment, but for the subrogation. Such rights may be exercised by the Party or an agency thereof, or by the investor if the Party or an agency thereof so authorises;

b) the investor of the Party may not pursue these rights to the extent of the subrogation.

Article 11. Transparency

1. Each Party shall publish, or otherwise make publicly available, its laws and regulations of general application, as well as international agreements which may affect investors of the other Party and their covered investments in its territory, including any measures aimed at protecting the environment and labour conditions or that may be affecting the protection of the environment or labour conditions, thereby ensuring awareness and providing reasonable opportunities for interested persons and stakeholders to submit views.

2. Nothing in this Article shall require the Party to furnish or allow access to any confidential or proprietary information, including information concerning particular investors or their covered investments, the disclosure of which would impede law enforcement or be contrary to domestic laws protecting confidentiality, or would prejudice legitimate commercial interests of investors and their covered investments.

Article 12. Observance of Written Commitments

Where a Party has entered into any written commitment with investors of the other Party or with their covered investments, that Party shall not breach the said commitment through the exercise of governmental authority.

Article 13. Prudential Carve-out

1. Nothing in this Agreement shall prevent a Party from adopting or maintaining measures for prudential reasons, such as:

(a) the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier;

(b) ensuring the integrity and stability of a Party's financial system.

2. Where such measures do not conform with the provisions of this Agreement, they shall not be used as a means of avoiding the Party?s commitments or obligations under the Agreement.

3. Nothing in this Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual consumers or any confidential or proprietary information in the possession of public entities.

Article 14. Security Exception

Nothing in this Agreement shall be construed:

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

(b) to prevent a Party from taking an action which it considers necessary for the protection of its essential security interests:

(i) connected to the production of or traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods and materials, services and technology, and to economic activities, carried out directly or indirectly for the purpose of supplying a military establishment;

(ii) relating to fissionable and fusionable materials or the materials from which they are derived; or

(iii) taken in time of war or other emergency in international relations; or

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

Article 15. Temporary Safeguard Measures

1. In exceptional circumstances of serious difficulties for the operation of the European Union's economic and monetary union, or threat thereof, the European Union may adopt or maintain safeguard measures with regard to transfers for a period not exceeding six months. The measures referred to in this paragraph shall be limited to the extent that is strictly necessary.

2. Where one of the Parties experiences serious balance of payments or external financial difficulties, or threat thereof, it may adopt or maintain restrictive measures with regard to transfers.

Such measures shall:

(a) be consistent with other international obligations of the Party, and with the Articles of the Agreement of the International Monetary Fund;

(b) not exceed those necessary to deal with the difficulties addressed under this paragraph;

(c) be temporary and phased out progressively as the situations improve;

(d) avoid unnecessary damage to the commercial, economic and financial interests of the other Party;

(e) be non-discriminatory compared to third countries in like situations.

3. A Party maintaining or having adopted measures referred to in this paragraph shall promptly notify them to the other Party.

Article 16. Regional Economic Integration Organisation Clause

Nothing in this Agreement shall prevent a Party from exercising its rights and fulfilling its obligations deriving from their membership in any existing or future economic integration agreement, such as free trade area, customs union, common market economic and monetary union, or as to oblige a Party to extend to the investors of the other Party and to their

covered investments, the benefits of any treatment, preference or privilege by virtue of its membership or participation in such economic integration agreement.

Section 3. SUSTAINABLE DEVELOPMENT

Article 17. Corporate Social Responsibility and Responsible Business Conduct

1. The Parties recognise the importance of investors implementing due diligence in order to identify and address adverse impacts, such as on the environment and labour conditions, in their operations, their supply chains and other business relationships, The Parties shall promote the uptake by enterprises and investors of corporate social responsibility or responsible business practices with a view to contributing to sustainable development and responsible investment.

2. The Parties shall support the dissemination and use of relevant internationally agreed instruments, such as the UN Global Compact, the UN Guiding Principles on Business and Human Rights, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and the OECD Guidelines for Multinational Enterprises and related due diligence guidance.

3. The Parties agree to exchange information as well as best practices on issues covered by this article, including on possible ways to facilitate the uptake by enterprises and investors of corporate social responsibility, responsible practices.

Article 18. Investment and Environment

1. The Parties recognise the right of each Party to determine its sustainable development policies and priorities, to establish the levels of domestic environmental protection it deems appropriate, and to adopt or modify its environmental laws and policies. Such levels, legislations and policies shall be consistent with each Party's commitments to internationally recognised standards and agreements on environmental protection.

2. A party shall not weaken or reduce the levels of protection afforded in its environmental legislation in order to encourage investment.

3. A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such legislation as an encouragement for an investment in its territory.

4. Each Party shall implement the multilateral environmental agreements (MEAs), protocols and amendments that it has ratified. The Parties affirm their commitment to promote the development of investment in a way that is conducive to a high level of environmental protection.

Article 19. Investment and Climate Change

1. The Parties recognise the importance of taking urgent action to combat climate change and its impacts and the role of investment in pursuing this objective, consistent with the United Nations Framework Convention on Climate Change (UNFCCC) and the purpose and goals of the Paris Agreement adopted by the Conference of the Parties to the UNFCCC at its 21st session (the Paris Agreement), and with other MEAs and multilateral instruments in the area of climate change.

2. Each Party shall:

(a) effectively implement the UNFCCC and the Paris Agreement adopted thereunder, including its commitments with regard to its Nationally Determined Contributions;

(b) promote investment of relevance for climate change mitigation and adaptation; including investment concerning climate friendly goods and services, such as renewable energy, low-carbon technologies and energy efficient products and services, and by adopting policy frameworks conducive to deployment of climate-friendly technologies.

3. The Parties shall work together to strengthen their cooperation on investment-related aspects of climate change policies and measures bilaterally, regionally, and in international fora, as appropriate.

Article 20. Investment and Labour

1. The Parties recognise the right of each Party to determine its sustainable development policies and priorities, to establish the levels of domestic labour protection it deems appropriate and to adopt or modify its labour laws and policies. Such levels, laws and policies shall be consistent with each Party's commitments to internationally recognised labour standards

and agreements.

2. A Party shall not weaken or reduce the levels of protection afforded in its labour legislation in order to encourage investment.

3. A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such legislation in order to encourage investment in its territory.

4. In accordance with the International Labour Organization ("ILO"), Constitution and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, as amended in 2022, each Party and its commitments under the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, each Party shall respect, promote and effectively implement throughout its territory the internationally recognised core labour standards as defined in the fundamental ILO Conventions.

5. Each Party shall effectively implement the ILO Conventions it has ratified and make sustained efforts towards ratifying, to the extent that it has not yet done so, the fundamental ILO Conventions.

6. Each Party is committed to promote investment policies which further the objectives of the Decent Work Agenda, in accordance with the 2008 ILO Declaration on Social Justice for a Fair Globalisation and the 2019 ILO Centenary Declaration for the Future of Work, including a human-centred approach to the future of work, adequate minimum wages, social protection and safety and health at work.

Article 21. Dialogue and Cooperation on Investment-related Sustainable Development Issues

The Parties agree to engage in dialogue and cooperate as appropriate on investment-related labour, environmental and climate change issues of mutual interest arising under this Section in a manner complementary to the efforts under existing bilateral and multilateral mechanisms.

Section 4. SETTLEMENT OF DISPUTES BETWEEN AN INVESTOR OF A PARTY AND THE OTHER PARTY

Article 22. Settlement of Disputes between Investors of a Party and the other Party

1. Any dispute which may arise between one of the Parties and an investor of the other Party, from a covered investment, and having as object a claim related to the breach of Section 2 of this Agreement shall as far as possible be settled through consultation, negotiation and mediation.

2. In the event that such dispute cannot be settled as provided for in paragraph 1 of this Article within six (6) months from the date of a written application for settlement, the investor in question may submit at its choice the dispute for settlement to one of the following fora:

(a) the competent court of the Party in the territory of which the investment has been made; or

(b) an ad hoc Arbitration Tribunal, in compliance with the Arbitration Rules of the UN Commission on International Trade Law (UNCITRAL) as in force at the time of submitting the dispute, unless another set of rules is agreed by the Parties to the dispute;

(c) the International Centre for Settlement of Investment Disputes (ICSID), for the implementation of an arbitration procedure, under the Washington Convention of 18 March, 1965, on the Settlement of Investment Disputes between State and National of other State, if this had entered into force for both States of the parties to the dispute, or, alternatively, in accordance with the ICSID Additional Facility Rules, if the Washington Convention has entered into force only for one the Parties.

The fora under letter b) and c) are hereinafter collectively referred as "The Arbitration Tribunal".

A dispute that has arisen between a Party and an investor of the other Party may be terminated at any stage of the proceedings amicably.

3. An investor may only submit a claim if the investor itself or any entity directly or indirectly controlled by it, or by which it is in turn directly or indirectly controlled, withdraws or discontinues any existing proceeding before a tribunal or court under domestic or international law with respect to a measure alleged to constitute a breach of this Agreement, as well as it waives

its right to initiate any claim or proceeding of the same kind with respect to a measure alleged to constitute such a breach. The investor shall apply this provision in good faith and avoid double proceedings for the same kind of substantial claims.

4. In the event that the investor, the investment or the Party have already been satisfied under domestic law on a claim substantially reproducing that to be addressed under this article, the disputing party is forbidden from proposing an arbitration.

5. Both Parties shall refrain from negotiating through diplomatic channels on any matters relating to an arbitration procedure or judicial procedure at the stage of the arbitration proceedings until these procedures have been concluded. The Arbitration Tribunal's decision shall be final and binding upon disputants.

6. The Parties shall pursue with each other and other interested trading partners the establishment of a permanent multilateral investment court which may include an appellate mechanism. Following the entry into force between the Parties of an international agreement providing for a permanent multilateral investment court, and a multilateral appellate mechanism applicable to disputes under this Agreement, the relevant parts of this Agreement shall cease to apply.

7. For the purposes of this Section, unless otherwise specified:

a) "disputing party" means the claimant and the respondent.

b) "claimant" means an investor and, if applicable, its locally established enterprise. In addition, it includes all persons who, directly or indirectly, have an ownership interest in or are controlled by the investor or its locally established enterprise, as applicable, and claim to have suffered the same loss or damage as the investor or the locally established enterprise, as applicable;

c) "respondent" means either the Republic of Italy or the Kyrgyz Republic.

Article 23. Transparency of Proceedings

1. The UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration, as adopted by the United Nations Commission on International Trade Law on 11 July 2013 shall apply to international arbitration proceedings initiated pursuant to Article 22 (2) (b) and (c).

2. Nothing in this Agreement or the applicable arbitration rules shall prevent the exchange of information between the European Union and the Republic of Italy or vice versa, which relates to international arbitration proceedings initiated pursuant to Article 22.

Article 24. Applicable Law and Rules of Interpretation

1. The Arbitration Tribunal and the competent court of the Party shall apply this Agreement as interpreted in accordance with the Vienna Convention on the Law of Treaties, and other rules and principles of international law applicable between the Parties. For greater certainty, the domestic law of the Parties shall not constitute part of the applicable law. In case of the Republic of =taly ?domestic law? includes the law of the European Union.

2. The Arbitration Tribunal shall not have jurisdiction to determine the legality of a measure under the domestic law of a Party. For greater certainty, in determining the consistency of a measure with this Agreement, the Arbitration Tribunal may consider, as appropriate, the domestic law of a Party as a matter of fact. In doing so, the Arbitration Tribunal shall follow the prevailing interpretation given to the domestic law by the courts or authorities of that Party.

Article 25. Ethics

1. Arbitrators shall be independent of, and not be affiliated with or take instructions from, a disputing party or the government of a Party with regard to trade and investment matters. Arbitrators shall not take instructions from any organisation, government or disputing party with regard to matters related to the dispute. They shall not participate in the consideration of any disputes that would create a direct or indirect conflict of interest. In so doing, they shall comply with Annex I (Code of Conduct). In addition, upon appointment, they shall refrain from acting as counsel in any pending or new investment protection dispute under this or any other agreement or domestic law.

2. Following the establishment of the Arbitration Tribunal under Article 22 if a disputing party considers that an arbitrator does not meet the requirements set out in paragraph 1 of this Article or in Annex I, it shall send a notice of challenge to the appointing authority as established by the relevant rules of procedure, who shall transmit it to the arbitrator concerned. The notice of challenge shall be sent within 15 days after the constitution of the Arbitration Tribunal was communicated to the

disputing party, or within 15 days after the date on which the relevant facts came to its knowledge, if they could not have reasonably been known at the time of constitution of the Arbitration Tribunal. The notice of challenge shall state the grounds for the challenge.

3. If, within 15 days after the date of the notice of challenge, the challenged arbitrator has elected not to resign from the Arbitration Tribunal, the appointing authority, after hearing the disputing parties and after providing the arbitrator an opportunity to submit any observations, issue a decision within 45 days after receipt of the notice of challenge and forthwith notify the disputing parties and other arbitrators of the Arbitration Tribunal.

Article 26. MULTIPLE PROCEEDINGS

1. The Arbitration Tribunal shall dismiss a claim by a claimant who has submitted a claim to any domestic or international court or tribunal concerning the same treatment as that alleged to breach the provisions of this Agreement, unless the claimant withdraws such pending claim. This paragraph does not apply if the claimant submits a claim to a domestic court or tribunal seeking interim injunctive or declaratory relief.

2. Together with the submission of a claim the claimant shall provide:

(a) evidence that it has withdrawn any pending proceedings before any domestic or international court or tribunal under domestic or international law concerning the same treatment as that alleged to breach the provisions of this Agreement; and

(b) a declaration that it will not initiate any proceeding before any domestic or international court or tribunal under domestic or international law concerning the same treatment as that alleged to breach the provisions of this Agreement.

Article 27. Claims Manifestly without Legal Merits

The respondent may, no later than 30 days after the establishment of the Arbitration Tribunal under article 22, or 30 days after it became aware of the facts on which the objection is based, file an objection that a claim is manifestly without legal merit. The respondent shall specify as precisely as possible the basis for the objection. The Arbitration Tribunal, after giving the parties to the dispute an opportunity to present their observations on the objection, shall, at its first session or promptly thereafter, issue a decision or award on the objection, stating the grounds therefor. In the event that the objection is received after the first session of the Arbitration Tribunal, the Arbitration Tribunal shall issue such decision as soon as possible, and no later than 120 days after the objection was filed. In doing so, the Arbitration Tribunal shall assume the alleged facts to be true, and may also consider any relevant facts not in dispute. The decision shall be without prejudice to the right of a disputing party to object, pursuant to Article 28 or in the course of the proceeding, to the legal merits of a claim and without prejudice to the Arbitration Tribunal's authority to address other objections as a preliminary question.

Article 28. Claims Unfounded as a Matter of Law

Without prejudice to the Arbitration Tribunal's authority to address other objections as a preliminary question or to the right of a respondent to raise any such objections at any appropriate time, the Arbitration Tribunal shall address and decide as a preliminary question any objection by the respondent that, as a matter of law, a claim, or any part thereof, is not shall address and decide as a preliminary question any objection by the respondent that, as a matter of law, a claim, or any part thereof, is not a claim for which an award in favour of the investor may be made, even if the facts alleged were assumed to be true. The Arbitration Tribunal may also consider any relevant facts not in dispute. Such an objection shall be submitted to Arbitration Tribunal as early as possible, and in any event not later than the expiration of the time limit fixed for the filing of the counter-memorial or statement of defence, unless the facts on which the objection is based are unknown to the party at that time. On receipt of an objection under this paragraph, and unless it considers the objection manifestly unfounded, the Arbitration Tribunal shall suspend any proceedings on the merits, establish a schedule for considering the objection consistent with any schedule it has established for considering any other preliminary question, and issue a decision on the objection, stating the grounds therefor.

Article 29. THIRD PARTY FUNDING

1. Third party funding is any funding provided by a natural or legal person who is not a disputing party but who enters into an agreement with a disputing party in order to finance part or all of the cost of the proceedings in return for a remuneration dependent on the outcome of the dispute or in the form of a donation or grant.

2. A disputing party benefiting from third party funding shall notify to the other disputing party and to the Arbitration

Tribunal hearing the claim, the name and address of the third-party funder and of its beneficial owner.

3. Such notification shall be made at the time of submission of a claim, or, if the funding agreement is concluded or the donation or grant is made after the submission of a claim, without delay as soon as the funding agreement is concluded or the donation or grant is made.

Article 30. SECURITY FOR COSTS

1. For greater certainty, on request, and after hearing the disputing parties, the Arbitral Tribunal may order the claimant to post security for all or a part of the costs if there are reasonable grounds to believe that the claimant risks not being able or willing to honour a possible decision or award on costs issued against it. In determining whether to order the provision of security for costs the Arbitral Tribunal shall consider all relevant circumstances and evidence, including the existence of third-party funding.

2. If the security for costs is not posted in full within thirty (30) days after the issuance of an order pursuant to paragraph 1 or within any other time period set by the Tribunal, the Tribunal shall so inform the disputing parties. The Tribunal may order the suspension or termination of the proceedings.

Section 5. CONSULTATION AND DISPUTE SETTLEMENT BETWEEN THE PARTIES

Article 31. Settlement of Disputes between the Parties

1. In case a dispute arises between the Parties on any alleged breaches in this Agreement, relating to its interpretation and application, this shall, as far as possible, be settled amicably through consultation, negotiation and mediation.

2. In the event that the dispute cannot be settled within six months from the date on which one of the Parties notifies the other Party in writing, the dispute shall at the request of one of the Parties, be laid before an ad hoc Arbitration Tribunal as provided for in this Article.

3. The Arbitration Tribunal shall be constituted in the following manner: within two months from the moment on which the request for arbitration is received, each Party shall appoint a member of the Tribunal. The President shall be appointed within three months from the date on which the other two members are appointed, by agreement of the Parties.

4. If, within the period specified in paragraph 3 of this Article, the appointment has not been made, each Party may invite, in default of other arrangements, the President of the International Court of Justice to make an appointment. In the event that the President of the Court is a national of one Party or if, for any reason, it is impossible for him/her to make the appointment, the application shall be made to the Vice President of the Court. If the Vice President of the Court is a national of one Party or, for any reason, is unable to make the appointment, the most senior member of the International Court of Justice, who is not a national of one of the Parties, shall be invited to make the appointment.

5. The Arbitration Tribunal shall rule with a majority vote, and its decision shall be binding. Each Parties shall pay the cost of its own arbitrator and of its representative at the hearings. The President?s cost and any other cost shall be divided equally between the Parties. The Arbitration Tribunal shall lay down its own procedure.

6. A dispute that has arisen between investor of one Party and the other party may be terminated at any stage of the proceedings amicably.

Section 6. FINAL DISPOSITIONS

Article 32. Relations between the Parties

The provisions of this Agreement shall be applied irrespective of whether or not the Parties have diplomatic or consular relations.

Article 33. Management of the Agreement

1. The Parties shall cooperate on issues covered by this Agreement.

2. To this end, the Parties shall establish a Committee, which shall meet once a year or at the request of a Party. Meetings may also be held by any technological means available to the Parties.3. The Committee shall:

(a) supervise and facilitate the implementation and application of this Agreement and further its general aims;

(b) consider any matter of interest relating to an area covered by this Agreement

(c) establish its own procedures.

Article 34. Amendments to the Agreement

By mutual consent, the Parties may amend this Agreement, or may jointly issue an interpretative note of any provision thereof. Any such amendments and additions will be executed by a separate protocol, which is an integral part of this Agreement.

Article 35. Denial of Benefits

A Party may deny the benefits of this Agreement to an investor of the other Party or to a covered investment if the denying Party adopts or maintains measures related to the maintenance of international peace and security, including the protection of human rights, which:

(a) prohibits transactions with that investor or covered investment, or

(b) would be violated or circumvented if the benefits of this Agreement were accorded to that investor of the Party or covered investment, including where the measures prohibit transactions with a natural or juridical person who owns or controls either of them.

Article 36. Entry Into Force, Duration and Termination

1. This Agreement shall enter into force on the date of receiving the last written notification confirming the implementation by the Parties of all internal procedures necessary for its entry into force.

2. This Agreement will remain in force for the period of ten years. Thereafter, it will be automatically extended for further periods of five years, unless one of the Parties notifies in writing the other Party within a minimum of six months prior to the expiration of the current period of validity, its intention to terminate it. The termination shall take effect two months after the date of receipt by the other Party of the notification, unless the Parties otherwise agree.

3. In the event that the present Agreement is terminated pursuant to paragraph 2 of this Article, its provisions shall continue to be effective for a further period of five (5) years from the date of termination, with respect to covered investments made before the date of termination.

In witness thereof the undersigned Representatives, duly authorized by the Parties, have signed the present Agreement.

DONE at_____ on "____" in two original copies, each in Kyrgyz, Italian, Russian and English, languages. In case of any divergence of interpretation, the English text shall prevail.

For the Kyrgyz Republic

For the Italian Republic

ANNEX I. CODE OF CONDUCT FOR ARBITRATORS AND MEDIATORS

1. Definitions

For the purpose of this Code of Conduct, the following definitions apply:

- "member" means a person who has been appointed to serve as a member of a tribunal established pursuant to Article 22 (2) (b) and (c) of this Agreement.

- "assistant" means a person who, under the terms of appointment of a member, assists the member, conducts research, or supports him or her in his or her duties

- "candidate" means a person who is under consideration for appointment as member;

- "mediator" means a person who conducts a mediation in accordance with Article 22 of this Agreement.

2. Governing Principles

Any candidate or member shall avoid impropriety and the appearance of impropriety, and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement proceeding is preserved.

3. Disclosure Obligations

1. Prior to confirmation of their appointment as members of the Arbitral Tribunal under Article 22 (2) (b) and (c) of this Agreement, candidates shall disclose to the disputing parties any past or present interest, relationship or matter that is likely to affect their independence or impartiality, or that might reasonably be seen as creating a direct or indirect conflict of interest, or that creates or might reasonably be seen as creating an appearance of impropriety or bias. To this end, candidates shall make all reasonable efforts to become aware of any such interests, relationships or matters. The disclosure of past interests, relationships or matters shall cover at least the last five (5) years prior to a candidate becoming aware that he or she is under consideration for appointment as member in a dispute under this Agreement.

2. Following their appointment, members shall at all times continue to make all reasonable efforts to become aware of any interests, relationships or matters referred to in Article 3(1) of this Code of Conduct. Members shall at all times disclose such interests, relationships or matters throughout the performance of their duties by informing the disputing parties and the Parties. They shall also communicate matters concerning actual or potential violations of this Code of Conduct to the disputing parties and the state of the Parties.

4. Independence, Impartiality and other Obligations of Members

1. In addition to the obligations established pursuant to Articles 2 and 3 of this Code of Conduct, members shall:

(a) get acquainted with this Code of Conduct;

(b) be and appear to be, independent and impartial, and avoid any direct or indirect conflicts of interest;

(c) not take instructions from any organisation or government with regard to matters before the tribunal for which they are appointed;

(d) avoid creating an appearance of bias and not be influenced by self-interest, outside pressure, political considerations, public clamour, loyalty to a Party, disputing party or any other person involved or participating in the proceeding, fear of criticism or financial, business, professional, family or social relationships or responsibilities;

(e) not, directly or indirectly, incur any obligation, or accept any benefit, enter into any relationship, or acquire any financial interest that would in any way interfere, or appear to interfere, with the proper performance of their duties, or that is likely to affect their impartiality;

(f) not use their position as a member to advance any personal or private interests and avoid actions that may create the impression that others are in a special position to influence them;

(g) perform their duties thoroughly and expeditiously throughout the course of the proceeding, and with fairness and diligence;

(h) avoid engaging in ex parte contacts concerning the proceeding;

(i) consider only those issues raised in the proceeding and which are necessary for a decision or award and not delegate this duty to any other person.

2. Members shall take all appropriate steps to ensure that their assistants are aware of, and comply with, Articles 2, 3, 4(1), 5 and 6 of this Code of Conduct mutatis mutandis.

5. Obligations of Former Members

1. Former members shall avoid actions that may create the appearance that they were biased in carrying out their duties or derived advantage from the decisions or awards of the tribunal.

2. Former members shall undertake that for a period of five (5) years after the end of their duties in relation to a dispute settlement proceeding under this Agreement they shall not:

(a) become involved in any manner whatsoever in investment disputes directly and clearly connected with disputes, including concluded disputes, that they have dealt with as members of a tribunal established under this Agreement;

(b) act as party-appointed member, legal counsel or party-appointed witness or expert of any of the disputing parties, in relation to investment disputes under this or other bilateral or multilateral investment treaties.

3. If the appointing authority in charge of deciding on challenges is informed or becomes otherwise aware that a former member is alleged to have acted inconsistently with the obligations established in Article 5(1) an (2), or any other part of this Code of Conduct while performing the duties of member of a tribunal in an investment dispute under this Agreement, it shall examine the matter, provide the opportunity to the former member to be heard, and after verification, inform:

(a) the professional body or other such institution with which the former member is affiliated;

(b) the Parties;

(c) the disputing parties in the specific dispute;

(d). any other relevant international court or tribunal.

4. The appointing authority in charge of deciding on challenges shall make public its decision to take the actions referred in paragraphs 3(a) to 3(d) above, together with the reasons thereof.

6. Confidentiality

1. No member or former member shall at any time disclose or use any non-public information concerning a proceeding or acquired during a proceeding, except for the purposes of that proceeding, and shall not, in any case, disclose or use any such information to gain personal advantage or advantage for others or to adversely affect the interest of others.

2. Members shall not disclose an order, decision, or award or parts thereof prior to adoption or publication. This provision is without prejudice to the powers of the Arbitral Tribunal to publish the award under the UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration.

3. Members or former members shall not at any time disclose the deliberations of the tribunal, or any views of other members forming part of the tribunal, except in an order, decision or award.

7. Expenses

Each member shall keep a record and render a final account of the time devoted to the procedure and of the expenses incurred, as well as the time and expenses of their assistants.

8. Mediators

The rules set out in this Code of Conduct apply, mutatis mutandis, to mediators.

ANNEX II. EXPROPRIATION

The Parties confirm their shared understanding that:

1. Expropriation may be either direct or indirect:

(a) direct expropriation occurs when an investment is nationalised or otherwise directly expropriated through formal transfer of title or outright seizure.

(b) indirect expropriation occurs where a measure or series of measures by a Party has an effect equivalent to direct expropriation, in that it substantially deprives the investor of the fundamental attributes of property in its investment, including the right to use, enjoy and dispose of its investment, without formal transfer of title or outright seizure.

2. The determination of whether a measure or series of measures by a Party, in a specific situation, constitutes an indirect expropriation requires a case-by-case, fact-based inquiry that considers, among other factors:

(a) the economic impact of the measure or series of measures, although the sole fact that a measure or series of measures of a Party has an adverse effect on the economic value of an investment does not establish that an indirect expropriation has occurred;

(b) the duration of the measure or series of measures by a Party;

(c) the character of the measure or series of measures, notably their object and context.

3. For greater certainty, except in the rare circumstance when the impact of a measure or series of measures is so severe in light of its purpose that it appears manifestly excessive, non-discriminatory measures by a Party that are designed and applied to protect legitimate policy objectives, such as the protection of public health, social services, public education, safety, environment including climate change, public morals, social or consumer protection, privacy and data protection, or the promotion and protection of cultural diversity do not constitute indirect expropriations.