

# Agreement on Investment Promotion and Mutual Protection between the Government of Georgia and the Government of the United Arab Emirates

The Government of Georgia and the Government of the United Arab Emirates (hereinafter - the contracting parties);

Express their desire to promote wider economic cooperation in the field of investments by investors of one contracting party in the state territory of the other contracting party;

Recognizing that the encouragement and mutual protection of such investments will help stimulate business initiatives and raise the level of prosperity of both contracting parties;

Agree that a stable investment framework ensures the most effective use of the economic resources of both contracting parties and the improvement of living standards,

Have agreed on the following:

## Article 1. Definitions

For purposes of this Agreement:

1. The term "investment" means all types of property directly or indirectly owned and invested by an investor of one Contracting Party in the territory of the State of the other Contracting Party, in accordance with the domestic legislation in force in the State of the Party, which includes:

(a) movable and immovable property, as well as any other property rights, such as: collateral, mortgage, usufruct and similar rights;

(b) the company, shares, shares, liabilities and other forms of participation in the company;

(c) obligations, bonds, loans and other forms of debt;

(d) a demand for money, or any other property or performance that has economic value;

(e) intellectual and entrepreneurial property rights, such as: copyrights, trademarks, patents, technical processes, know-how and goodwill related to the investment; and

(f) rights granted by law or contract, such as: concessions, licenses, authorizations or permits. This agreement does not apply to natural resources.

A monetary claim that includes any interest defined in clauses (a)-(f) above does not apply to

i. on commercial contracts for the sale of goods and services, by a citizen or company of a Contracting Party to a citizen or company of the other Contracting Party, in the territory of the latter; or

ii. on the granting of credit in connection with commercial transactions, such as trade finance.

For the purposes of this Agreement, property is considered an investment if it meets the criteria characteristic of an investment, including criteria such as the investment of capital or other resources, the expectation of income or profit, and possible risk.

For purposes of this Agreement, an arbitration award or other order or judgment entered in connection with an Investment shall not be considered an Investment.

2. The term "Investor" means in relation to each Contracting Party:

(a) any natural person who is a national of that Contracting Party under its laws;

(b) any legal person constituted or organized under the domestic laws of that Contracting Party and carrying on substantial business activities in the territory of that Contracting Party.

3. The term "territory" means:

a. In relation to Georgia: the territory defined by the legislation of Georgia, including the land space, its interior and air space above them, internal waters and territorial sea, their bottom, interior and air space above them, over which Georgia exercises sovereignty; as well as the zone adjacent to its territorial waters, the exclusive economic zone and the continental shelf, over which Georgia can exercise its sovereign rights and/or jurisdiction in accordance with international law.

b. In relation to the United Arab Emirates: the territory of the United Arab Emirates, its territorial waters, airspace and underwater space over which the United Arab Emirates exercises sovereign rights, in accordance with international law and the law of the United Arab Emirates, including any measures taken in its special economic zones, land and islands. In relation to waters, seabed and subsoil, in relation to the exploration and exploitation of natural resources, within the framework of its legislation and international law.

## **Article 2. Promotion of investments**

Each Contracting Party, in the field of foreign investments, in accordance with the general policy of its country, shall facilitate the implementation of investments by investors of the other Contracting Party in its state territory and shall receive such investments in accordance with the domestic legislation in force in its state.

## **Article 3. Investment Treatment and Protection**

1. Each Contracting Party shall accord fair and equitable treatment and full protection and security in accordance with customary international law to investments made in the territory of its State by an investor of the other Contracting Party.

2. Neither Contracting Party shall take unreasonable or discriminatory measures which restrict the management, maintenance, use, enjoyment or disposal of investments made by investors of the other Contracting Party.

3. A determination that another provision of this Agreement or an independent international agreement has been violated shall not constitute grounds for violation of this Article.

## **Article 4. Most-Favoured Nation Treatment**

1. Each Contracting Party shall accord to investors of the other Contracting Party and their investments, in relation to the management, realization, operation and disposal of investments, treatment no less favorable than that which it accords in similar circumstances to investors of any third State and their investments.

2. For greater clarity, the regime referred to in paragraph 1 does not provide for dispute settlement mechanisms or any procedural or legal issues, as well as guarantees regarding the host State's contractual obligations, as provided for in this or other international agreements.

3. The provisions of this Agreement shall not be construed as obliging one Contracting Party to grant to investors of the other Contracting Party any treatment, relief or privilege arising from:

(a) from participating in any existing or future regional economic integration agreement or organization or customs union of which any Contracting Party is or may become a member, or

(b) from any international agreement or treaty relating wholly or principally to taxation, or from any domestic law relating wholly or principally to taxation.

4. The provisions of this article do not apply to state purchases, subsidies and loans, guarantees, insurances granted to local companies.

## **Article 5. National Treatment**

1. Each Contracting Party shall accord to the investors of the other Contracting Party and their investments, with respect to management, implementation, operation and disposal, treatment no less favorable than that which it accords to its investors and their investments in similar circumstances.

2. The provisions of this article do not apply to state procurement.

## **Article 6. Expropriation**

1. Neither Contracting Party shall expropriate, nationalize, or take measures having a similar effect (hereinafter referred to as "expropriation") of investments of investors of the other Contracting Party, except in cases where such expropriation is carried out:

- a. for public interest;
- b. on a non-discriminatory basis;
- c. subject to prompt, adequate and effective compensation payment; and
- d. following due legal process.

2. The compensation referred to in paragraph 1 (c) of this article must correspond to the market value of the expropriated investment that existed immediately before the expropriation was carried out or before the public announcement of the expected expropriation, depending on which fact occurs earlier. Compensation must be effectively realizable, freely transferable, and paid without delay.

3. Paragraphs 1 and 2 of this Article shall not in any way limit the right of a Contracting Party to enact laws, take measures or regulatory measures which it considers necessary to achieve legitimate objectives of public welfare, in particular, such as public health, safety and environmental protection, control over the use of property in common in accordance with interests, or securing the payment of taxes, or other contributions or penalties.

## **Article 7. Compensation for Losses**

1. Investors of each Contracting Party, if their investments in the territory of the State of the other Contracting Party suffer losses due to war or other armed conflict, civil commotion, declared state of emergency, mutiny, insurrection or disorder, with restitution, compensation, compensation or otherwise covering such losses in connection with this, the other Contracting Party shall accord treatment no less favorable than that which the latter Contracting Party accords to its own investors or to investors of any third country, whichever is more favorable.

2. Without limiting the first paragraph of this article, investors of one contracting party who, in the case of any of the circumstances specified in the mentioned paragraph, suffered losses in the territory of the state of the other contracting party:

- a. as a result of requisitioning of their investments or part thereof by the armed forces or authorities of the latter; or
- b. as a result of the destruction of their investments or part thereof by the armed forces or authorities of the latter, which was not due to the necessity caused by the existing situation,

restitution or compensation will be provided.

## **Article 8. Transfers**

1. Each Contracting Party shall ensure the free transfer of funds related to the investments of the other Contracting Party into and out of the territory of its State without delay. Such transfers include:

- (a) initial capital and additional funds to maintain or increase the investment;
- (b) lump sums payments;
- (c) the proceeds of the sale of the whole or any part of the investment of the other Contracting Party, or the liquidation of a part or the whole of the investment;
- (d) amounts paid under agreements, including loan agreements;
- (e) the income of personnel employed abroad in connection with an investment made in its territory; and
- (f) Amounts paid pursuant to Articles 6 and 7 of this Agreement.

2. Each Contracting Party shall ensure the transfer of funds related to the investments of the other Contracting Party in a

freely convertible currency at the exchange rate valid on the day of the transfer.

3. Notwithstanding paragraphs 1 and 2 of this Article, a Contracting Party may delay and/or prevent the transfer of funds through fair, non-discriminatory and fair measures related to taxation, protection of creditors' rights and enforcement of judgments or decisions rendered by courts or administrative authorities. .

## **Article 9. Denial of Benefits**

1. A Contracting Party may refuse to grant the benefits provided for in this Agreement to an investor of the other Contracting Party who is a legal entity of that other Contracting Party and for investments of that investor, if the enterprise is owned or managed by persons of a non-Contracting Party and if the Contracting Party refusing the benefits does not have diplomatic relations with that with a non-contracting party.

2. A Contracting Party may refuse to grant the benefits provided for in this Agreement to an investor of the other Contracting Party who is a legal entity of that other Contracting Party and for investments of that investor, if the legal entity does not carry out its main business activities in the territory of the State of that other Contracting Party and if that legal entity owns or managed by persons of a non-Contracting Party or of a Contracting Party denying benefits.

## **Article 10. Right to Regulate**

1. Nothing in this Agreement shall be construed as preventing any Contracting Party from adopting, promoting or implementing any measures in accordance with this Agreement which it considers necessary to ensure:

- (a) compliance with domestic law in force in a Contracting Party that is not inconsistent with this Agreement;
- (b) protection of the environment as well as human or plant life or health;
- (c) regulating the conservation of living and non-living exhaustible natural resources; or
- (d) to maintain or restore international peace or security, or to protect its own security interests.

2. In the adoption, maintenance or implementation of such measures, it shall be subject to the requirement that they shall not be applied in an arbitrary or unjustified manner, or shall not constitute a disguised restriction on the investments of the other Contracting Party.

## **Article 11. Settlement of Investment Disputes between an Investor and the other Contracting Party**

1. This Article regulates legal disputes arising from investment between an investor of one Contracting Party and another Contracting Party, in the territory of the State of the latter Contracting Party. Such dispute shall relate to a possible breach of an obligation under this Agreement by one Contracting Party, which has caused loss or damage to an investor of the other Contracting Party.

2. To initiate consultations, the investor shall submit a written notification to the Contracting Party. The notice must specify such details of the dispute as:

- a. Name and address of the investor in question;
- b. the provisions of this Agreement that were allegedly violated; and
- c. Factual and legal basis for the claim.

3. If such a dispute cannot be settled amicably by an investor of one Contracting Party within six months of receipt of a written notification of the dispute to the other Contracting Party, upon the request of the investor, the dispute shall be settled as follows:

- a. by the competent court of the contracting party in whose territory the investment was made; or
- b. by arbitration by the International Center for the Settlement of Investment Disputes (ICSID), established under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, opened for signature at Washington on March 18, 1965, provided that both contracting parties to the ICSID Convention is a member; or
- c. Under the ICSID Additional Provisions, if one of the contracting parties is a signatory to the Washington Convention, or

d. by arbitration before a tribunal of three arbitrators pursuant to the 2010 Amendments to the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules. In the case of arbitration, each contracting party, by this agreement, finally agrees to submit any such dispute in advance to a tribunal constituted in accordance with the said rules.

4. The arbitration award is final and binding. Each contracting party is obliged to ensure the recognition and enforcement of the arbitral award in accordance with its applicable laws, regulations and norms, as well as the principles of international law.

5. Disputes arising from other contractual relations between the investor and any successor of the other party to the agreement or its local authority and which concern the investment made by the investor, must be resolved in accordance with the given dispute resolution procedures.

6. In the event that a dispute resolution procedure is initiated within any forum specified in paragraph 3 of this article, the use of the forum selected by the parties excludes the use of the other two forums in relation to disputes with similar or identical subject matter.

7. No investment dispute shall be referred to arbitration under paragraph 3 of this article if more than five years have passed since the date on which the investor first learned, or should have learned for the first time, of the alleged violation and the loss or damage he allegedly suffered.

## **Article 12. Settlement of Disputes between the Contracting Parties**

1. Any dispute arising between the Contracting Parties regarding the interpretation or application of this Agreement shall, as far as possible, be resolved through consultations and/or other diplomatic channels.

2. If the Contracting Parties fail to reach an agreement within six months of the request for settlement of the dispute by one of the Contracting Parties through consultations and/or other diplomatic channels, the disputed matter shall, at the request of that Contracting Party, be referred to an arbitral tribunal. Unless otherwise agreed between the Contracting Parties, the arbitration shall be conducted on the basis of the optional rules of the Permanent Court of Arbitration governing the arbitration of disputes between the two States, unless this requirement is changed by the Contracting Parties or on the basis of this Agreement.

3. If the parties do not agree otherwise, the dispute shall be considered by an arbitration tribunal consisting of three members. Each Contracting Party shall appoint one arbitrator within two months from the date on which one of the Contracting Parties receives from the other Contracting Party a request for the appointment of an arbitrator. The two arbitrators so appointed shall, within a further period of two months, select a third arbitrator, who shall be a national of a third State. A third arbitrator, with the consent of both contracting parties, shall be appointed to preside over the arbitral tribunal.

4. If any member of the arbitral tribunal is not appointed within the period specified in paragraph 3 of this article, at the request of one of the contracting parties, the arbitrator or arbitrators shall be appointed by the Secretary General of the Permanent Court of Arbitration, at his discretion.

5. The place of arbitration shall be The Hague, Kingdom of the Netherlands.

6. The arbitration tribunal makes its decision by majority vote. Such decisions shall be final and binding on each Contracting Party.

7. The contracting parties shall equally reimburse the expenses incurred by the arbitrators and other expenses related to the arbitration proceedings. However, the arbitral tribunal may, at its discretion, award the bulk of the costs to one of the contracting parties.

## **Article 13. Application of the Agreement**

This Agreement shall apply to all investments made by investors of one Contracting Party in the territory of the other Contracting Party in accordance with the applicable laws and regulations of its State, before and after the entry into force of this Agreement, but shall not apply to disputes or claims arising out of circumstances arising hereunder before the entry into force of the agreement.

## **Article 14. Amendments**

Amendments and additions may be made to this Agreement based on the mutual agreement of the contracting parties,

which will be signed in the form of a separate document and will enter into force in accordance with the first paragraph of Article 15 of this Agreement. This separate document is an integral part of this Agreement.

## **Article 15. Entry Into Force, Duration and Termination**

1. This Agreement shall enter into force on the thirtieth day after the date of receipt of the last written notification through diplomatic channels after completion of internal procedures necessary for entry into force by the Contracting Parties.
2. This Agreement shall remain in effect for a period of ten (10) years and shall continue in effect thereafter unless terminated by either Party in accordance with Section 3 of this Article.
3. Each Contracting Party may terminate this Agreement prior to the expiration of the initial ten-year period, or thereafter, at any time, one (1) year in advance, by written notification through diplomatic channels.
4. With respect to investments made prior to the effective date of termination of this Agreement, the provisions of Articles 1-13 shall remain in effect for a period of ten (10) years after such date.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Agreement.

Signed in Tbilisi, on July 17, 2017, in two languages, each in Georgian, Arabic and English. However, all texts are equally authentic. In the event of a different interpretation of the provisions of this Agreement by the Contracting Parties, the text in English shall prevail.

On behalf of the Government of Georgia

Mikheil Janelidze

Minister of Foreign Affairs

Vice Premier

On behalf of the Government of the United Arab Emirates

Abdullah Bin Zayed Al Nahyan

Minister of Foreign Affairs and International Cooperation