

# **AGREEMENT BETWEEN THE GOVERNMENT OF THE ITALIAN REPUBLIC AND THE GOVERNMENT OF ROMANIA FOR THE PROMOTION AND PROTECTION OF INVESTMENTS**

The Government of the Italian Republic and the Government of Romania, hereinafter referred to as "Contracting Parties",  
Wishing to develop the existing economic cooperation relations between the two States and to create favorable conditions  
for investing investors of a Contracting Party in the territory of the other Contracting Party ;  
Aware of the need to create and maintain conditions of stability in order to stimulate investment as well as the effective  
utilization of the economic resources of both countries;  
Recognizing that the promotion and mutual protection of investment under this agreement will give rise to initiatives in the  
specific sector and will increase the prosperity of the two states.  
Have agreed as follows:

## **Article 1. Definitions**

For the purposes of this Agreement:

1 . "Investment" means any property of an investor or a party, including goods, rights and financial resources invested in the  
territory of the other Contracting Party in accordance with the laws and regulations of that Contracting Party.

The term includes, but is not limited to:

- a) Movable and immovable property, and any other right in rem, including, as far as is usable for investment, the real rights  
of guarantee on third party property;
- b) Shares, bonds, quotas of participation and other forms of participation in companies of capital or persons legally  
constituted in the territory of a contracting party, as well as any other negotiable instrument or document of credit, as well  
as government bonds and public securities in general;
- c) Reinvested earnings;
- d) Financial claims, or any other rights deriving from investments, services or services of an economic or financial nature  
linked to investments;
- e) Intellectual and Industrial Property Rights, including those arising from copyright, trademarks, trade names, commercial  
secrets, patents, technological processes, know-how, launch and other similar rights;
- f) Any rights of a financial nature, whether by law or by contract, and any public or private license and concession granted by  
law or by contract, with particular regard to concessions relating to prospecting, exploration, cultivation, extraction and  
exploitation Of natural resources, including those located in marine areas under the jurisdiction of one of the Contracting  
Parties.

Any change in the form in which the assets are invested or reinvested will not affect their investment capability.

2 . The term "investor" means any natural or legal person having the nationality of one of the Contracting Parties which has  
carried out, carried out or engaged in investing in the territory of the other Contracting Party.

As regards "legal persons", their legal constitution according to national law by 'their right under this Agreement and on  
reciprocal conditions', to invest in the territory of the other Contracting Party, according to the laws And the regulations of  
the latter party.

3 . The term "natural person" and "legal person" mean respectively:

- in Romania: any natural person who has Romanian nationality in accordance with the laws in force, as well as any juridical

person lawfully constituted under Romanian law and having its head office in Romania;

- in respect of the Italian Republic: any natural person who has Italian citizenship and any body having its registered office in the territory of the Italian Republic and recognized under national law as a public body, company of persons or of capital, foundation Or association, irrespective of whether or not the liability of the latter is limited.

## **Article 2. Promotion and Protection of Investment**

1 . Each Contracting Party shall encourage and create favorable conditions for investments made in its territory by investors of the other Contracting Party.

2 . The investments will be authorized in accordance with the provisions of the law of the Contracting Party in whose territory they are to be carried out and will benefit from the protection and guarantees provided for in this Agreement.

3 . Each Contracting Party shall ensure in its territory fair and equitable treatment to investors of the other Contracting Party. Each Contracting Party shall ensure that the management, maintenance, use, enjoyment, transformation, repatriation of capital, liquidation and transfer of investments made in its territory by investors of the other Contracting Party, Local companies, companies and firms in which such investments have been made shall not be subject to arbitrary, unjustified or discriminatory measures.

4 . Investors of both Contracting Parties may, irrespective of the nationality of their membership, the managerial and technical staff of their choice, to the extent permitted by the laws of the host State. Subject to the laws on entry and residence of aliens, nationals of a Contracting Party may enter and stay in the territory of the other for technical assistance, and to settle and administer their investments.

5 . Each party undertakes to provide effective means of lodging appeals and enforce its rights under this agreement, investment licenses and property.

6 . Each Contracting Party shall make public all relevant laws and regulations affecting investments made in its territory by investors of the other Contracting Party.

## **Article 3. Investment Management and the Most Favored Nation Clause**

1 . Each Contracting Party shall accord to investments made in its territory, affiliated undertakings and the related income to investors of the other Contracting Party, a treatment no less favorable than that reserved for investments, related and related activities Income derived from it, its nationals or third-country investors.

2 . Each Contracting Party shall accord to investors of the other Contracting Party, in respect of the management, maintenance, enjoyment, authorized transformation, capital repatriation, liquidation, use or disposal of their investment, non-treatment Less favorable than that accorded to its investors or investors from any other third country.

3 . The provisions of this Agreement relating to the granting of national or most favored nation treatment may not be construed as obliging a Contracting Party to extend to the investors of the other, the advantages and privileges it grants as a result of its membership to:

a) Any customs or economic union, free trade zone or regional or subregional economic organization, a common market association of which one of the Contracting Parties may or may become a member;

b) International, multilateral or regional agreements, or other agreements aimed at avoiding all or predominantly double taxation, or facilitating cross-border trade.

## **Article 4. Nationalization or Expropriation**

1) (1) the investments referred to in this Agreement may not be the subject of measures limiting, permanently or temporarily, the rights of ownership, possession, control and enjoyment inherent in them, unless expressly provided for by law or by virtue of Effect of judgments and orders of the competent judicial authorities.

2 . Investments made by investors of one of the Contracting Parties in the territory of the other shall not be directly or indirectly expropriated, nationalized, subject to or subject to measures having similar effects (hereinafter referred to as "expropriation") unless Following conditions:

a) The measures are adopted in the national interest or for public ends, and in conformita 'to the prescribed procedimenti of law;

b) The measures are not discriminatory in relation to measures taken with regard to investments or national investors or third-country investors or investors;

c) An appropriate procedure is established to determine the amount and manner of payment of compensation.

3) The compensation shall be equivalent to the effective and fair market value of the investment hit by one of the measures referred to in paragraph 1 of this Article and shall be prompt, adequate and effective. (1) of this Article and shall Be quick, adequate and effective.

4) The amount of compensation will be determined in accordance with the internationally recognized valuation principles, such as the actual and fair market value of the investment immediately preceding the time when the expropriation decision was announced or made public. Where the actual and fair market value can not be easily verified, the compensation will be determined on the basis of objective criteria of equity, considering, inter alia, the capital invested, its revaluation or impairment, current income, Replacement value and any other important item.

Compensation will include interest calculated on the basis of six-month libor, matured from the date of expropriation to the payment date, unless the investor has retained the benefit of the expropriated investment up to the date of the reimbursement.

5) In the event of failure to reach an agreement between the investor and the obliging contracting party, the amount will be calculated in accordance with the dispute settlement procedures in Article 8 of this Agreement. Article 8 of this Agreement.

6) The amount of compensation will be readily paid to the investor, who will be entitled to transfer without undue delay their freely convertible currency sums.

Determined for compensation, he will be promptly granted permission for his repatriation.

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

1) Investors in one of the two Contracting Parties whose investments have been made in the territory of the other Contracting Party have suffered losses or losses due to wars or other armed conflicts, national emergency states, revolutions, riots, insurrections or similar events , Including damages and losses due to requisition, shall receive from the Contracting Party in which the investment was made, with reference to the measures taken to compensate such losses and losses, a treatment no less favorable than that granted by the Contracting Party Own national investors, and in any case, investors from any other third country. The sums referred to in this Article will be freely transferable in convertible currency and without any delay.

## **Article 6. Repatriation of Capital, Profits and Income**

1) Each Contracting Party shall ensure the free transfer of: (1) of this Agreement to investors of the other Contracting Party for investments made in accordance with their laws and regulations as referred to in Article 1 (1) of this Agreement, The free transfer of:

a) Capital and additional capital shares used to maintain and increase investment:

b) Current incomes deriving from investments such as net income, dividends, royalties, payments for assistance and technical services, interests and any other profits;

c) Sums deriving from the total or partial sale sale or liquidation of an investment;

d) Payments made for the repayment of receivables deriving from investments and related interests, as well as the sums destined for repayment of loans related to investments and related interests;

e) Adequate share of the earnings of citizens of the other Contracting Party arising from work or services provided in connection with investments made in its territory;

f) Compensation provided for in Articles 4 and 5; Articles 4 and 5;

2) Each Contracting Party shall, upon completion of its investment tax obligations, grant, if so requested, any necessary authorization to ensure that there is no undue delay in the transfer.

3) The above transfers will be made in the convertible currency in which the investment was made, or, if so agreed, in any other freely convertible currency, at the prevailing exchange rate prevailing at the date of the transfer.

4) Shall be deemed to be "without undue delay" within the meaning of this Article, those transfers which have been made within the period of time normally required for the completion of the relevant administrative formalities. This period shall run from the date on which the transfer request, accompanied by the necessary documentation, has been in the appropriate form submitted to the competent authorities, and shall not in any case exceed a period of two months. The same provisions shall apply to the transfers referred to in Articles 4-5 and 7 of this Agreement: Articles 4-5 and 7 of this Agreement:

## **Article 7. Subrogation**

If one of the two Contracting Parties, or one of its institutions, has granted an investment guarantee by an investor in the territory of the other Contracting Party and has made payments under the guarantee granted, the latter Contracting Party shall recognize:

- a) The transfer by law or on the basis of a legal transaction, of any right or claim of the investor concerned, to the insurer or its institution;
- b) That the insuring contracting party or its institution is legitimate for the sake of surrogacy, to exercise the rights and to assert the claims of that investor.

The insuring contracting party will therefore be entitled to exercise such rights or claims in the same credit standing as its own. In relation to the transfer of payments due to that Contracting Party or its establishment as a result of the subrogation, the provisions of Art. 6 of this Agreement.

## **Article 8. Settlement of Disputes between Investors and Contracting Parties**

1 . Any dispute arising between a Contracting Party and an investor of the other Contracting Party relating to an investment of that investor in the territory of the first Contracting Party, including disputes relating to expropriation and those relating to the amount of such payments, Will, as far as possible, be resolved amicably through consultations and negotiations between the parties to the dispute.

2 . In the event that the dispute can not be resolved amicably within six months of the date of a written request, the investor in question may submit the dispute at his discretion:

- a) To the court of the Contracting Party, in all its cases, competent by territory;
- b) To an arbitral tribunal ad hoc, in accordance with the Arbitration Rules of the United Nations Committee on International Business Law (Uncitral). The arbitration will take place in accordance with the Arbitration Regulation of the United Nations International Commercial Law (Uncitral) in accordance with Resolution 31/98 of 15 December 1976 adopted by the United Nations General Assembly.

The arbitrator or arbitrators and, where appropriate, the President shall be citizens of States having diplomatic relations with both Contracting Parties. The recognition and enforcement of the arbitral award in the territory of the Contracting Parties shall be governed by their national law in accordance with the international conventions to which they are party;

- c) The "International Settlement of Investment Disputes", for the application of the arbitration and conciliation procedures provided for in the Washington Convention of 18 March 1965 on the "settlement of disputes concerning investments between states and citizens of other states" .

However, in specific contracts, investors and contractors may agree on dispute settlement procedures.

3) The Contracting Party which is a party to a dispute may not, at any stage of the proceedings relating to investment disputes, bring to its defense its immunity from jurisdiction, as well as the fact that the investor has received damages On the basis of an insurance contract that provides for the partial or total coverage of losses or damages suffered.

## **Article 9. Disputes between the Contracting Parties**

1 . Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall be settled amicably - as far as possible - by negotiation between the two Contracting Parties. In the event that the dispute can not be resolved in the six months following the date on which one of the Contracting Parties has notified the other Contracting Party in writing, the dispute shall be submitted at the request of one of the Parties Arbitration tribunal, in accordance with the provisions of this Article.

2 . The arbitral tribunal shall be constituted case by case as follows: each Contracting Party shall appoint an arbitrator; The two arbitrators will subsequently select a national of a third State who, upon the approval of the two Contracting Parties, will be appointed President of the Tribunal. Referees will be appointed every three months, and the president within five months of receiving the arbitration request.

3 . If within the period referred to in paragraph 2 of this Article, no nominations have been made, each Contracting Party may invite the President of the International Court of Justice to effect them within three months. If the President is a citizen of one of the Contracting Parties or for any other reason he or she can not exercise this function, the Vice-President of the International Court of Justice may be invited to make the necessary appointments. Where the vice-president is a citizen of one of the contracting parties and is also unable to accept the post, he will be invited to make the appointments of the member of the International Court of Justice, older and not Citizen of one of the Contracting Parties, paragraph 2 of this Article, no nomination has been made, each Contracting Party may invite the President of the International Court of Justice to execute them within three months. If the President is a citizen of one of the Contracting Parties or for any other reason he or she can not exercise this function, the Vice-President of the International Court of Justice may be invited to make the necessary appointments. Where the vice-president is a citizen of one of the contracting parties and is also unable to accept the post, he will be invited to make the appointments of the member of the International Court of Justice, older and not Citizen of one of the Contracting Parties.

4 . The arbitral tribunal shall decide on the basis of the provisions of this Agreement and those of other agreements concluded between the Contracting Parties as well as the general principles and the rules of international law. The ruling will be decided by a majority of votes: it will be final and binding.

5 . Each Contracting Party shall support the costs of the arbitrator he has appointed and those of his participation in the arbitration proceedings. The expenses for the president and the remaining expenses will be borne by the two parties on an equal footing.

6 . The arbitral tribunal will establish its own procedures.

## **Article 10. Implementation of the Agreement and Application of other Provisions Herein**

The Agreement shall also apply to investments made prior to its entry into force by investors of either Contracting Party in the territory of the other Contracting Party and authorized in accordance with the legal provisions of one or more of the Contracting Parties, Other contracting party. The agreement will not apply to disputes arising before its entry into force.

1) Where a matter is governed by this Agreement and by another international agreement to which both Contracting Parties are party, or otherwise regulated by rules of general international law, the Contracting Parties and their investors shall apply the provisions from time to time More favorable.

2 . If a Contracting Party, by virtue of laws or other general provisions having regulatory effect, has adopted for investors of the other Contracting Party a more advantageous treatment than that provided for in this Agreement, it shall be treated as having the same treatment More favorable.

In the case of specific contracts between an investor and one of the Contracting Parties, the provisions of these contracts, irrespective of the application of the provisions of this Agreement, shall remain valid for the investors concerned.

## **Article 11. Entry Into Force, Duration and Expiry**

1) This Agreement shall enter into force as of the last date in which one of the two Contracting Parties has notified the other Party of their respective legal procedures.

2) This Agreement shall remain in force for 10 years from the date of completion of the legal procedures referred to in paragraph 1 of this Article and shall be renewed for a further period of five years, unless one of the two Parties denies it By written notice, one year before any expiry date, paragraph 1 of this Article, and shall be renewed for a further five-year period, unless one of the two parties gives notice thereof in writing in writing one year before Any expiration date.

3) In the case of investments made before the expiry date of this Agreement, as provided for in this Article 11, the provisions of Articles 1 to 1 shall remain in force for another five years after the above mentioned dates. Article 11, the provisions of Articles 1 to 1) shall remain in force for another five years after the above-mentioned dates.

(\*) Done at Rome, 6 December 1990, in three original copies in English, each in the English, Italian and Romanian languages, all the texts being equally authentic. In case of divergence of interpretation, the English text will be considered as reference text. (\*)

For the government of the Italian republic

For the Government of Romania

(\*) Read: made in Rome on 6 December 1990, in two original copies in English.