

# AGREEMENT

## Between

### Government of Romania and the Government of Turkmenistan on the Promotion and Reciprocal Protection of Investments

The Government of Romania and the Government of Turkmenistan, hereinafter referred to as the Contracting Parties,

- Desiring to deepen economic cooperation for the mutual benefit of both countries,
- Intending to create and maintain favorable conditions for investments of investors of one Contracting Party in the territory of the other Contracting Party,
- Recognizing the need for promotion and mutual protection

Foreign investment in order to accelerate the economic prosperity of both countries,

Have agreed as follows:

#### Article 1. Definitions

In this Agreement:

a) The term "investor" means any natural person who is a

A citizen of one of the Contracting Parties and any legal entity established under the laws of one of

Contracting Party in the territory of which the investment.

b) the term "investment" includes all kinds of assets that investors of one Contracting Party investing in the territory of the other Contracting Party in accordance with its legislation, and in particular:

- Movable and immovable property (buildings, structures, equipment and other tangible assets) and related property rights, including the right to bail;
- Cash and shares, stocks and other forms of participation in companies;
- The right claims to money that is invested to create economic value, or services having an economic value;
- Copyrights, rights to inventions, industrial designs, trademarks, service marks, trade names, as well as technology and "know-how";
- The right to engage in economic activities, conferred by law or contract, including, in particular, the right to exploration, development and exploitation of natural resources;

c) the term "returns" means the amounts derived from the investment, including, in particular, profit (profit share), dividends, interest, royalties and fees, payments for technical assistance and maintenance and other fees.

d) the term "territory" means:

- Romania: Romania's territory, including the territorial sea and the exclusive economic zone over which Romania in accordance with its laws and with international law exercises its sovereignty, sovereign rights or jurisdiction.

- Turkmenistan: Turkmenistan's territory, including territorial waters, continental shelf and economic zone, over which Turkmenistan in accordance with their legislation and with international law, exercises sovereign rights or jurisdiction.

## **Article 2. Promotion and Admission**

1. Each Contracting Party shall in its territory encourage investments of investors of the other Contracting Party and admit such investments in accordance with its legislation.
2. Each of the Contracting Parties in accordance with its legislation will assist in obtaining the necessary permits in connection with investments made in its territory, including permission to hire administrative and technical staff at the option of the investor, regardless of nationality.

## **Article 3. The Protection of the Regime**

1. Each Contracting Party shall ensure in its territory fair and equitable treatment and protection to investments of investors of the other Contracting Party and will not infringe on by adopting arbitrary or discriminatory measures the management and disposition of investment rights of the other Contracting Party.
2. The regime referred to in paragraph 1 of this Article, be no less favorable than that granted to investments of its own investors or investors of any third state, and activities associated with such investments.
3. Most favored nation treatment provided in accordance with paragraph 2 of this Article shall not apply to the advantages which the Contracting Party is providing or will provide in the future:
  - a) in connection with participation in a free trade area, customs or economic union;
  - b) on the basis of international agreements on avoidance of double taxation or other agreements on taxation;
  - c) an agreement on cross-border trade.

## **Article 4. Transfers**

1. Each of the Contracting Parties in accordance with its legislation guarantees the investors of the other Contracting Party after the payment of the relevant taxes and fees, free transfer abroad of payments in connection with investments, and in particular:
  - a) income as defined in paragraph "c" of Article 1 of this Agreement;
  - b) the amounts in repayment of loans, recognized by both Contracting Parties as investments;
  - c) the amounts received by the investor in connection with the partial or total liquidation or sale of investments;
  - d) damages and losses in accordance with Article 5 of this Agreement.
2. Notwithstanding the provisions of paragraph 1 of this Article, each Contracting Party may, in exceptional circumstances to impose a financial exchange restrictions in accordance with its legislation (and according to the Articles of the Charter of the International Monetary Fund).
3. If the investor otherwise agreed, transfers should be made at the exchange rate applicable on the date of transfer in accordance with the currency regulations in force in a Contracting Party, the investment has been carried out on whose territory.

## **Article 5. Expropriation**

1. Investments of investors of either Contracting Party within the territory of the other Contracting Party can not be eksprprirovany, nationalized or subjected to other measures equal to expropriation or nationalization (hereinafter referred to as expropriation) except in cases where such measures are taken in the public interest in the manner prescribed by law, are not discriminatory and are accompanied by payment of prompt, adequate and effective compensation.

Compensation should correspond to the real value of the expropriated investment immediately on the day preceding the date of adoption or publication of the decision on expropriation. Compensation will be paid without unreasonable delay in freely convertible currency and include the customary percentage of the central bank of the country in which the investment was made, accrued up to the time of its payment, freely transferable from the territory of one Contracting Party in the

territory of the other Contracting Party.

2. If the investments of investors of one Contracting Party will suffer losses in the territory of the other Contracting Party owing to war, a state of emergency, civil unrest or other similar circumstances, the Contracting Party in whose territory the investment is carried out, in making its action for damages or other appropriate measures will provide these to investors treatment no less favorable than that accorded to its own investors and / or investors of any third state.

## **Article 6. Application of the Agreement**

This Agreement shall also apply to investments in the territory of one Contracting Party made in accordance with its legislation by investors of the other Contracting Party prior to the entry into force of this Agreement. However, the Agreement shall not apply to disputes arising before its entry into force.

## **Article 7. Other Liabilities**

1. If the legislation of one Contracting Party shall accord to investments investors of the other Contracting Party to more favorable conditions than those provided by this Agreement, such legislation, since it is more favorable, shall prevail over this Agreement.

2. Each Contracting Party shall observe any contractual obligation it may take with regard to the investor of the other Contracting Party in connection with investments authorized by it in its territory.

## **Article 8. The Principle of Subrogation**

If a Contracting Party or its designated representative on the basis of guarantees issued by them in respect of the investment of the investor of that Contracting Party, make the payment of compensation to the investor, the Contracting Party or its designated representative shall acquire by subrogation the respective rights and obligations of the investor, based on the Agreement is current.

## **Article 9. Settlement of Disputes between a Contracting Party and an Investor of the other Contracting Party**

1. Disputes between a Contracting Party and an investor of the other Contracting Party arising in connection with investments, including disputes over the size of the issues, conditions, or order the payment of compensation, shall be settled by negotiations.

2. If so the dispute is not resolved within six months from the date of written notice of him one of the parties to the dispute, then the investor's choice of dispute may be submitted to:

a) the competent court or tribunal of the Contracting Party in whose territory the investment is made; or

b) the International Centre for Settlement of Investment Disputes, established pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, opened for signature in Washington on March 18, 1965, in case both Contracting Parties are parties to the above-mentioned Convention; or

c) an ad hoc arbitration court in accordance with the Arbitration Rules of the International Trade Law of the United Nations Commission (UNCITRAL), as amended, until at the last amendments approved by both Contracting Parties at the time of the request for introduction of the arbitration procedure.

3. During the arbitration proceedings or enforcement of the decision of the arbitral tribunal the disputing Contracting Party shall not assert as an argument that the investor of the other Contracting Party has received partial or full compensation for the damages on the basis of insurance.

## **Article 10. Settlement of Disputes between the Contracting Parties**

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall be settled through diplomatic channels.

2. If both Contracting Parties can not reach an agreement within six months after the beginning of the dispute between them, the dispute should be submitted for review to the court of arbitration at the request of one of the Contracting Parties.

3. The arbitral tribunal shall consist of three arbitrators and is created separately for each individual case in the following way: within two months of receipt of a written notice to the Contracting Parties to the other Contracting Party to refer the dispute to an arbitral tribunal, each Contracting Party shall appoint one arbitrator. These two arbitrators within two months from the date of appointment of the second arbitrator, the third arbitrator will be elected - a citizen of a third State having diplomatic relations with both Contracting Parties who, with the consent of the Contracting Parties shall be appointed Chairman of the arbitral tribunal.
4. If the arbitral tribunal will be established within four months from the date of receipt of written notification to refer a dispute to an arbitration tribunal, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice at The Hague to make the necessary appointments. If the President is a citizen of either Contracting Party or is otherwise prevented from discharging the said function, then make the necessary appointments offered to the next-highest member of the International Court of Justice who is not a national of either Contracting Party.
5. The arbitral tribunal shall itself establish rules of procedure. The Court decides in accordance with the provisions of this Agreement and the generally recognized principles of international law.
6. Each Contracting Party shall bear the expenses of the arbitrator whom it has appointed and of its representation in the proceedings. the chairman and other costs should bear the Contracting Parties in equal parts.
7. The decisions of the tribunal are final and binding for each Contracting Party.

## **Article 11. Final Provisions**

1. This Agreement shall enter into force thirty days after the Contracting Parties by an exchange of notes have notified each other that their legal conditions for entry into force of this Agreement are fulfilled. It shall remain in force for a period of ten years. If twelve months before the expiry of this period will not be granted a formal notice of termination, the Agreement shall be deemed extended for the same conditions for the next ten-year period.
2. In the case of the official notification of the termination of this Agreement, the provisions of Articles 1-10 shall remain in force for the next ten years for investments made before official notice was made.

In proof whereof, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Bucharest on 16 November 1994 in two originals, each in Romanian, Turkmen and Russian languages, all texts being equally authentic. In case of divergence of interpretation of the texts of this Agreement the text in Russian shall prevail.