

# **AGREEMENT BETWEEN THE GOVERNMENT OF THE ITALIAN REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF ALBANIA ON THE PROMOTION AND PROTECTION OF INVESTMENTS**

The Government of the Italian Republic and the Government of the Republic of Albania hereinafter referred to as Contracting Parties,

Wishing to create favorable conditions for greater economic cooperation between the two countries, and in particular investment by investors of a Contracting Party in the territory of the other Contracting Party, recognizing that promotion and mutual protection, in accordance with the International Agreements Such investments will help to stimulate entrepreneurial initiatives to foster the prosperity of the two Contracting Parties, in the context of the Final Act of the Conference on Security and Cooperation in Europe signed in Helsinki on 1 August 1975, have agreed as follows:

## **Article 1. Definitions**

For the purposes of this Agreement:

1. "Investment" means any asset invested by investors of a Contracting Party in the territory of another Contracting Party, irrespective of the legal form chosen and of the legal order of reference, in accordance with the laws and regulations of that Contracting Party.

In this context of general nature, the term investment indicates in particular but not exclusively:

- a) Movable and immovable property, as well as any real rights, including mortgages, pledges and privileges, for investment purposes;
- b) Shares, bonds, quotas of participation and any other title of credit;
- c) Financial claims or any rights deriving from commitments or services of economic and investment value and income reinvested;
- d) Intellectual property rights and therefore also industrial, including copyrights, trademarks, patents, industrial designs, know-how, business secrets, trade names, goodwill and other similar rights;
- e) Any right of economic nature conferred by law, contract, license or administrative act including those of prospecting, cultivation, extraction and exploitation of natural resources.

2. "Investor" means a natural or legal person of a Contracting Party which has undertaken, carried out or assumed, obtained any necessary administrative authorization, irrevocable obligation to make investments in the territory of the other Contracting Party, in accordance with the laws and regulations Of the latter.

"Natural person" means, for each Contracting Party, a natural person who, by law, has a nationality and is entitled to make investments in the territory of the other Contracting Party.

"Legal person" means, for each Contracting Party, any entity having its registered office in its territory which has been legally recognized by it as a legal person, company or undertaking, irrespective of whether the liability is limited or less.

3. "Income" means the sums that arise from an investment, and in particular profits, interest, capital gains, royalties and other investment income.

4. "Territory" means land within the land borders, as well as marine and submarine areas on which the Contracting Parties have sovereignty or exercise, under international law, sovereignty rights of jurisdiction.

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

1 . Each Contracting Party shall encourage investors from the other Contracting Party to make investments in their territory and shall grant such authorization in accordance with their legislation.

2 . Each Contracting Party will always ensure fair and equitable treatment for investors and investors of the other.

Each Contracting Party shall ensure that the management, maintenance, enjoyment, right of disposal, termination and liquidation of investments made in its territory by investors of the other, as well as the companies and undertakings in which such investments have been made, Are in no way affected by unjustified or discriminatory measures.

### **Article 3. National Treatment and Most Favored Nation Clause**

1 . Each Contracting Party shall, in its territory, grant investment and income related to the investments of the investors of the other, no less favorable treatment than that accorded to its own investors or third country investors.

2 . The treatment accorded to investment-related activities by investors of each Contracting Party shall not be less favorable than that accorded to similar investment-related activities of its own investors or any other third country.

3 . The provisions of paragraphs 1 and 2 of this Article shall not apply to the advantages and privileges which a Contracting Party recognizes to investors of third country investors as a result of its participation in: points 1 and 2 of this Article shall not apply The advantages and privileges that a Contracting Party recognizes as investors of third countries as a result of its participation in:

a) Customs or Economic Unions, Common Market Associations, Free Trade Areas, Regional or Sub-Regional Agreements, International Multilateral Economic Agreements;

b) Agreements concluded to avoid double taxation or any other fiscal agreement;

c) Agreements concluded to facilitate cross-border trade.

### **Article 4. Compensation for Damages**

Where investors in one of the two Contracting Parties suffer losses in their investments in the territory of the other Contracting Party due to wars or other armed clashes, emergency states or other similar events, the Contracting Party in which it is The invested investment being made will offer investors, as compensation for the damage suffered, a treatment no less favorable than that accorded to their investors or investors of any other third country. Payments to this title must be freely transferable.

### **Article 5. Nationalization or Espionage**

1 . Investments referred to in this Agreement may not be the subject of measures limiting the right of ownership, possession, control and enjoyment inherent to them in a fixed or indefinite way, except as provided for by law, as a result of judgments or Ordinances of the competent judicial or administrative authorities, or by non-discriminatory measures of a general nature intended to govern economic activities.

2 . Investors of one of the Contracting Parties will not be directly or indirectly nationalized, expropriated, subject or subject to measures having similar effects in the territory of the other Party unless the following conditions are met:

a) Pursuit of public ends or of national interest in accordance with current regulations;

b) Adoption of the above measures on a non-discriminatory basis;

c) Compensation for immediate, full and effective reparation.

3 . Fair compensation will be equivalent to the actual market value of the investment immediately prior to the time when the decisions referred to in paragraph 2 above have been announced or made public and will be determined on the basis of commonly recognized commercial technical criteria. Announced or made public and will be determined on the basis of commonly recognized commercial technical criteria.

If market valuation difficulties are found, compensation will be determined on the basis of a fair valuation of the enterprise value as well as the balance sheet results. Compensation will include interest accrued on the date of payment, calculated at the six-month LIBOR rate or the corresponding international average rate of the currency chosen and starting on the fifteenth day from the date of nationalization or expropriation. In the absence of an agreement between the investor and

the obligating Contracting Party, the amount of compensation shall be determined in accordance with the dispute settlement procedures referred to in Article 8 of this Agreement. Compensation, once determined on its amount and in its payment modalities, will be promptly paid, repatriated and freely transferred in convertible currency, at the exchange rate applicable on the transfer date.

4. The provisions of paragraph 1 of this Article shall also apply to the proceeds resulting from the winding-up and to the income referred to in point 3 of Article 1, point 1 of this Article, shall also apply to proceeds arising from winding-up and to income Referred to in Article 3 (3).

## **Article 6. Various Currency Transfers**

1. Each of the Contracting Parties will guarantee to investors of the other, after the investors themselves have fulfilled any tax obligation and any other tax legal obligation, to transfer abroad in any convertible currency of:

- a) Capital and additional capital shares used to maintain and increase investment;
- b) Income as defined in point 3 of Article 1 of this Agreement, as well as technical assistance and technical fees related to investments, point 3 of Article 1 of this Agreement, as well as technical assistance and technical-related fees for investments;
- c) Sums deriving from the total or partial sale or liquidation of an investment;
- d) Sums for repayment of loans relating to an investment and the payment of interest thereon;
- e) Any other remuneration and benefits received by nationals of the other Contracting Party and derived from work for dependents and on behalf of investors and services rendered in the performance of investments made in their territory, to the extent and in accordance with the procedures laid down by national laws and regulations regulations;
- f) Compensation payable pursuant to Articles 4 and 5. Articles 4 and 5.

2. Payment transfers referred to in point 1 above shall be made without undue delay and in any case within three months of the request at the exchange rate applicable on the day of their transfer. Point 1 shall be made without undue delay and in any case within three months of the request, Exchange rate applicable on the day of their transfer.

3. Taking into account Article 3 of this Agreement, the Contracting Parties undertake to grant the transfers referred to in paragraph 1 of this Article the same treatment as those arising from investments made by third-country investors, whichever is more favorable. Article 3 Of this Agreement, the Contracting Parties undertake to grant the transfers referred to in paragraph 1 of this Article the same treatment as those arising from investments made by third-country investors, if any, more favorable.

## **Article 7. Surrogate or Succession In Rights and Obligations**

In the event that a Contracting Party or its institution has granted an insurance against non-commercial risks for investments made by its investor in the territory of the other and has made payments on the basis of the guarantee granted, the Contracting Party - or its Institution - will be recognized as surrogate in law in the same profitable position as the insured investor. For the payments to be made to the Contracting Party or its institution by virtue of such surrogacy, Article 6 of this Agreement shall apply.

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

1. Any investment dispute that arises between an investor and the other Contracting Party, including disputes concerning expropriation, expropriation, nationalization, requisition and similar measures, shall, as far as possible, be resolved amicably.

2. If such disputes can not be resolved amicably within 6 months of the date of a written request, the interested investor may, at his option, submit:

- a) To the competent court, and its subsequent instances, of the Contracting Party in whose territory the investment was made;
- b) To an Arbitral Tribunal established case by case. Arbitration will be conducted in accordance with the United Nations Commission on International Commercial Law (UNCITRAL) Arbitration Regulations, as referred to in United Nations General Assembly resolution no. 31/98 of 15 December 1976 or the following UN Rules accepted by the Contracting Parties.

The arbitrators will be in the number of three and, if they are not nationals of the Contracting Parties, must be citizens of a country that has diplomatic relations with the Contracting Parties. If necessary, the Chairman of the Chamber of Commerce Arbitration Institute or any other President of the Arbitration Institute elected by mutual agreement shall be responsible for appointing the arbitrators in accordance with the above-mentioned Rules. The seat of arbitration will be Stockholm, unless otherwise agreed between the parties to the dispute.

Similarly, the conciliation procedures recommended by the same UN Commission may also be exercised.

c) To the International Center for Settlement of Investment Disputes (ICSID) for the application of the arbitration and conciliation procedures provided for in the Washington Convention of 18 March 1965 on the "Settlement of Contracts concerning Investments between States and Citizens of Other States" As soon as the Contracting Parties have both validly adhered to, or regulating the additional "mechanisms" for conciliation of the arbitration of the aforesaid International Center.

For the purposes of Article 25 of the Washington Convention of 18 March 1965 and as from the date on which it will apply to both Contracting Parties, companies having legal personality of a Contracting Party are parties to the dispute but with a majority of investors' Of the other Contracting Party or of any other Part Three shall be deemed to have the nationality of the latter;

d) The recognition and enforcement of the arbitral award in the territory of the Contracting Parties shall be governed by their respective national law in accordance with the International Conventions to which they are party. Arbitral Judgments will be binding and definitive;

e) That Contracting Party which is a party to a dispute may not, at any stage of the proceedings arising out of an investment dispute, sue defense of immunity from jurisdiction as well as the fact that the investor has received compensation for the effect of insurance contracts concluded For partial or total coverage of any loss or damage suffered.

## **Article 9. Rules of Contracts between the Contracting Parties**

1 . Disputes between the Contracting Parties concerning the interpretation and application of this Agreement shall be, as far as possible, amicably composed by diplomatic means.

2 . In the event that such disputes can not be made within three months of the date on which one of the Contracting Parties has made a written request, they shall, at the initiative of one of them, be subject to the jurisdiction of an arbitration tribunal ad hoc in accordance with Provisions of this Article.

3 . The Arbitral Tribunal shall be constituted as follows: within two months from the date of receipt of the request for arbitration, each Party shall appoint a member of the Tribunal. These two members will then, as President, be a national of a third State. The Chairman shall be appointed within three months of the date of appointment of the two members.

4 . If, within the time limit referred to in paragraph 3 of this Article, appointments have not yet been made, each of the two Contracting Parties may, in the absence of other agreements, request their performance to the President of the International Court of Justice. If he is a citizen of one of the Contracting Parties or for any other reason he can not accept the assignment, he will be asked by the Vice President of the Court. Whenever the Vice President is a citizen of one of the Contracting Parties or for any other reason it is not possible for him to accept it, he will be invited to the senior member of the International Court of Justice and not a citizen of one of the Contracting Parties. 3 of this Article, the appointments have not yet been made, each of the two Contracting Parties may, in the absence of other agreements, request their execution to the President of the International Court of Justice. If he is a citizen of one of the Contracting Parties or for any other reason he can not accept the assignment, he will be asked by the Vice President of the Court. Whenever the Vice President is a citizen of one of the Contracting Parties or for any other reason it is not possible for him to accept it, he will be invited to the senior member of the International Court of Justice and not a citizen of one of the Contracting Parties.

5 . The Arbitral Tribunal will establish its own procedures. The Arbitral Tribunal will decide by majority vote and its decisions will be final and binding. Each Contracting Party shall bear the costs of its arbitrator and those for his participation in the arbitration proceedings. The expenses for the President and the remaining expenses shall be borne by the two Parties equally.

## **Article 10. Application of the Agreement**

This Agreement shall also apply to investments made prior to its entry into force by investors of one Contracting Party within the territory of the other, provided that they are lawfully or recognized as being in conformity with the provisions of this Agreement and with the provisions of the law in force , On the said date of entry into force in the Contracting Party

receiving the investment.

## **Article 11. Application of other Provisions**

- 1 . Where a matter is governed by this Agreement or by any other bilateral or multilateral Agreement in force for the two Contracting Parties, or otherwise regulated by general rules of international law, the Contracting Parties and their investors shall apply the provisions of More favorable time.
- 2 . Where a Contracting Party, by virtue of laws, regulations, provisions or specific contracts, has adopted, for investors of the other, more favorable rules than those provided for in this Agreement, it shall accord the same treatment to the most favorable treatment.
- 3 . Except as provided for in this Agreement, international law and principles recognized by both Contracting Parties will be used.

## **Article 12. Entry Into Force**

The two Contracting Parties shall notify in writing the completion of the legal procedures provided for by their respective laws.

This Agreement shall enter into force as of the date of the last notification of notification.

## **Article 13. Validity and Expiration**

- 1 . This Agreement will remain in force for 10 years. From the date referred to in Article 12, and shall remain in force for subsequent periods of five years, unless one of the two Parties has denounced it in writing before one year from the date of each expiry. Article 12 and shall remain Tacitly in force for subsequent five-year periods, unless one of the two Parties has denounced it in writing before one year from the date of each expiration.
- 2 . For investments made before the expiry date referred to in the preceding paragraph, the provisions of this Agreement shall remain in force for another five years from the date of such expiry.

DONE at Rome on the twelfth day of year, one thousand nine hundred and ninety-two in duplicate, both in Italian and in Albanian, both texts being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF ALBANIA

FOR THE GOVERNMENT OF THE ITALIAN REPUBLIC