

# **AGREEMENT BETWEEN THE GOVERNMENT OF THE STATE OF ISRAEL AND THE GOVERNMENT OF THE REPUBLIC OF MOLDOVA FOR THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS**

The Government of the State of Israel and the Government of the Republic of Moldova (hereinafter: the "Contracting Parties"),

DESIRING to intensify economic cooperation to the mutual benefit of both countries,

INTENDING to create favorable conditions for greater investments by investors of either Contracting Party in the territory of the other Contracting Party,

And,

RECOGNIZING that the reciprocal promotion and protection of investments on the basis of the present Agreement will be conducive to the stimulation of individual business initiative and will increase prosperity in both States,

HAVE AGREED as follows:

## **Article 1. Definitions**

For the purposes of the present Agreement:

1. The term "investments" shall comprise any kind of assets, implemented in accordance with the laws and regulations of the Contracting Party in whose territory the investment is made, including, but not limited to: (a) Movable and immovable property, as well as any other rights in rem, in respect of every kind of asset;

(b) Rights derived from shares, bonds and other kinds of interests in companies;

(c) Claims to money, goodwill and other assets and to any performance having an economic value;

(d) Rights in the field of intellectual property, technical processes and know-how;

(e) Business concessions conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources.

A change in the form in which assets are invested or reinvested, in accordance with the laws and regulations of the Contracting Party in whose territory the investment is made, does not affect their character as investments within the meaning of this Agreement.

2. The term "investor" shall comprise:

With respect to investments made in the State of Israel:

(a) Natural persons who are nationals of the Republic of Moldova who are not also nationals or permanent residents of the State of Israel; or

(b) Legal entities including companies, corporations, firms or associations incorporated or constituted in accordance with the law of the Republic of Moldova, which are not directly or indirectly controlled by companies of the State of Israel.

With respect to investments made in the Republic of Moldova:

(a) Natural persons who are nationals or permanent residents of the State of Israel who are not also nationals of the Republic of Moldova; or

(b) Legal entities including companies, corporations, firms or associations incorporated or constituted in accordance with the law of the State of Israel, which are not directly or indirectly controlled by companies of the Republic of Moldova.

3. The term "returns" shall comprise the amount yielded by an investment including, but not limited to: dividends, profits, sums received from the total or partial liquidation of an investment, interest, capital gains, royalties or fees.

4. The term "territory" shall mean with respect to each Contracting Party, the territory of that Contracting Party including the territorial sea, as well as the continental shelf and the exclusive economic zone over which that Contracting Party exercises sovereign rights or jurisdiction in conformity with international law.

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

1. Each Contracting Party shall, in its territory, encourage and create favorable conditions for investments by investors of the other Contracting Party and, subject to its right to exercise the powers conferred by its laws, shall admit such investments.

2. Investments made by investors of each Contracting Party shall be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Contracting Party. Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment or disposal of investments in its territory of investors of the other Contracting Party.

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

1. Neither Contracting Party shall, in its territory, subject investments or returns of investors of the other Contracting Party to treatment less favorable than that which it accords to investment or returns of its own investors or to investments or returns of investors of any third State.

2. Neither Contracting Party shall, in its territory, subject investors of the other Contracting Party, as regards their management, maintenance, use, enjoyment or disposal of their investments, to treatment less favorable than that which it accords to its own investors or to investors of any third State.

3. The exceptions to the present Article are stipulated in Article 7 and the Annex to this Agreement, which shall constitute an integral part of this Agreement.

## **Article 4. Compensation for Losses**

Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection, riot or other such similar activity in the territory of the latter Contracting Party shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, no less favorable than that which the latter Contracting Party accords to its own investors or to investors of any third State. Resulting payments shall be freely transferable.

## **Article 5. Expropriation**

1. Investments of investors of either Contracting Party shall not be nationalized, expropriated or subjected to measures having effect equivalent to nationalization or expropriation (hereinafter: "expropriation") in the territory of the other Contracting Party, except for a public purpose related to the internal needs of that Contracting Party on a non-discriminatory basis and against prompt, adequate and effective compensation. Such compensation shall amount to the market value of the investment expropriated immediately before the expropriation or before the impending expropriation became public knowledge, whichever is the earlier, shall include interest at the rate provided by the law of that Contracting Party until the date of payment, shall be made without delay, be effectively realizable and be freely transferable. The investors affected shall have a right, under the law of the Contracting Party making the expropriation, to prompt review, by a judicial or other independent authority of that Contracting Party, of his or its case and of the valuation of his or its investment, in accordance with the principles set out in this paragraph.

2. Where a Contracting Party expropriates the assets of a company, within the meaning of Article 1 (2), which is incorporated or constituted under the law in force in its territory and in which investors of the other Contracting Party own shares, or other ownership rights, it shall ensure that the provisions of paragraph (1) of this Article are applied to the extent necessary to guarantee prompt, adequate and effective compensation, in respect of their investment to such investors of the other Contracting Party who are owners of those shares or other ownership rights.

## **Article 6. Repatriation of Investments and Returns**

1. Each Contracting Party shall, in respect of investments, guarantee to investors of the other Contracting Party all the rights and benefits regarding the unrestricted transfer of their investments and returns which were in force on the day the current investment was implemented; provided however, that the investor has complied with all his fiscal obligations and has fulfilled all the requirements of the exchange regulations. Transfers shall be effected without delay in the convertible currency in which the capital was originally invested, or in any other convertible currency in accordance with the law of the Contracting Party concerned. Unless otherwise agreed by the investor, transfers shall be made at the rate of exchange applicable on the date of transfer pursuant to the exchange regulations in force.

2. In the event the exchange regulations of one Contracting Party are modified, that Contracting Party guarantees that no such modifications shall adversely affect the position of an investment which has already been admitted into the territory of that Contracting Party.

## **Article 7. Exceptions**

The provisions of this Agreement relative to the grant of treatment not less favorable than that accorded to the investors of either Contracting Party or of any third State shall not be construed so as to oblige one Contracting Party to extend to the investors of the other the benefit of any treatment, preference or privilege resulting from:

(a) Any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation;

(b) Any existing or future customs union, free trade area agreement or similar international agreement to which either Contracting Party is or may become a party.

## **Article 8. Disputes between an Investor of a Contracting Party and the other Contracting Party**

1. For the purpose of solving disputes with respect to investments, between an investor of a Contracting Party and the other Contracting Party, consultations between the parties to the dispute and other remedies will be pursued, with a view to resolving the dispute.

2. If these consultations and remedies do not result in a solution within 6 (six) months from the date of request for settlement, the investor may submit the dispute, at his choice, for settlement to:

a) The International Centre for Settlement of Investment Disputes (ICSID), instituted by the Convention on the Settlement of Investment Disputes between States and the Nationals of Other States, of Washington D.C. of March 18, 1965, from such time as the Republic of Moldova becomes a party to the Convention.

b) An arbitrator or international ad hoc tribunal as agreed by the parties to the dispute. The arbitral tribunal shall be established according to the principles contained in Article 9.

3. Neither Contracting Party shall pursue, through the diplomatic channel, any dispute referred to ICSID or to international arbitration unless the other Contracting Party does not comply with the decision of ICSID or an international arbitration.

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

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should, if possible, be settled through the diplomatic channel, which may include, if both Contracting Parties so desire, referral to a 3ilateral Commission composed of representatives of both Contracting Parties.

2. If a dispute between the Contracting Parties cannot thus be settled within 6 (six) months from notification of the dispute, it shall, upon the request of either Contracting Party, be submitted to an arbitral tribunal.

3. Such an arbitral tribunal shall be constituted for each individual case in the following way: within two months of the receipt of the request for arbitration, each Contracting Party shall appoint one member of the tribunal. Those two members shall then select a national of a third State who, on approval by the two Contracting Parties, shall be appointed Chairman of the tribunal. The Chairman shall be appointed within two months from the date of appointment of the other two members.

4. If, within the periods specified in paragraph (3) of this Article, the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invite the Chairman of the Court of Arbitration of the International Chamber of Commerce in Paris (hereinafter: the "ICC") to make any necessary appointments. If the Chairman

is a national of either Contracting Party or is otherwise prevented from discharging the said function, then one of the Vice-Chairmen who is not a national of either Contracting Party shall be invited to make the necessary appointments. If the Vice-Chairmen are nationals of either Contracting Party or are otherwise prevented from discharging the said function, then the member of the Court next in seniority who is not a national of either Contracting Party and is not otherwise prevented from discharging the said function, shall make the appointments.

5. The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be binding on both Contracting Parties. Each Contracting Party shall bear the cost of its own member of the tribunal and of its representation in the arbitral proceedings; the cost of the Chairman and the remaining costs shall be borne in equal parts by the Contracting Parties. The tribunal shall determine its own procedure.

## **Article 10. Subrogation**

If one contracting Party or its designated Agency (hereinafter: the "First Contracting Party") makes a payment under an indemnity given in respect of an investment in the territory of the other Contracting Party (hereinafter: the "Second Contracting Party"), the Second Contracting Party shall recognize:

(a) The assignment to the First Contracting Party by law or by legal transaction of all the rights and claims of the party indemnified; and

(b) That the First Contracting Party is entitled to exercise such rights and enforce such claims by virtue of subrogation, to the same extent as the party indemnified, and shall assume the obligations related to the investment.

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

If the provisions of law of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to the present Agreement contain rules, whether general or specific, entitling investments by investors of one Contracting Party to treatment more favorable than is provided for by the present Agreement, such rules shall to the extent that they are more favorable prevail over the present Agreement.

## **Article 12. Application of the Agreement**

The provisions of this Agreement shall also apply to investments made before the entry into force of this Agreement.

## **Article 13. Entry Into Force**

Each Contracting Party shall notify the other Contracting Party in writing through the diplomatic channel of the completion of its internal legal procedures required for bringing this Agreement into force. This Agreement shall enter into force on the date of the latter notification.

## **Article 14. Duration and Termination**

This Agreement shall remain in force for a period of 10 (ten) years. Thereafter it shall continue in force until the expiration of 12 (twelve) months from the date on which either Contracting Party shall have given written notice of termination to the other. In respect of investments made while this Agreement is in force, its provisions shall continue in effect with respect to such investments for a period of 10 (ten) years after the date of termination and without prejudice to the application thereafter of the rules of general international law.

IN WITNESS whereof the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement.

Done in Jerusalem this 22nd day of June 1997, which corresponds to the 17th day of siyan 5757, in duplicate in the Hebrew, Moldovan and English languages, all 3 (three) texts being equally authentic.

In case of differences in interpretation the English text shall prevail.

FOR THE GOVERNMENT OF THE STATE OF ISRAEL

FOR THE GOVERNMENT OF THE REPUBLIC OF MOLDOVA

On the signing of the Agreement between the Government of the State of Israel and the Government of the Republic of Moldova for the Reciprocal Promotion and Protection of Investments;

And,

Taking into consideration the provisions of Article 6 of the Agreements for the Promotion and Reciprocal Protection of Investments entered into by the Government of the State of Israel with the Governments of Poland, Hungary and Romania in 1991;

The Parties have agreed on the following provisions, which, in accordance with Article 3 (3) of the Agreement shall constitute an integral part of the Agreement:

1. The provisions of Article 3 shall not be construed so as to oblige the State of Israel to extend to investors of the Republic of Moldova the benefits of any treatment, preference or privilege resulting from the definitions of "investment" and "reinvestment" and the provisions of Article 6 contained in the Agreements for the Promotion and Reciprocal Protection of Investments entered into by the Government of the State of Israel with the Governments of Poland, Hungary and Romania in 1991.

2. The Government of the State of Israel shall notify the Government of the Republic of Moldova without delay, in the event the agreements with Poland, Hungary and Romania are appropriately modified so as to render this Annex unnecessary. Upon such notification, this Annex shall become null and void.

Done in Jerusalem this 22nd day of June, 1997, which corresponds to the 17th day of Siyan, 5757, in duplicate, in the Hebrew, Moldovan and English languages, all 3 (three) texts being equally authentic.

In case of differences in interpretation the English text shall prevail.

FOR THE GOVERNMENT OF THE STATE OF ISRAEL

FOR THE GOVERNMENT OF THE REPUBLIC OF MOLDOVA