

PROTOCOL

On signing the Treaty concerning the Encouragement and Reciprocal Protection of Investments, concluded between the Federal Republic of Germany and the Republic of Moldova, the undersigned plenipotentiaries have further agreed on the following provisions which shall be regarded as an integral part of the Treaty:

(1) Ad Article 1

(a) Returns from the investment and, in the event of their reinvestment, the returns therefrom also, shall enjoy the same protection as the investment.

(b) Without prejudice to any other procedure to determine nationality, every person who possesses a national passport issued by the relevant authorities of the Contracting Party in question shall be deemed a national of that Contracting Party.

(2) Ad Article 2

(a) Investments made by nationals or companies of a Contracting Party in accordance with the legislation of the other Contracting Party and within its territory shall enjoy the full protection of the Treaty.

(b) The Treaty shall also apply in the territories of the exclusive economic zone and the continental shelf, insofar as international law permits the Contracting Party concerned to exercise sovereign rights or powers in those territories.

(3) Ad Article 3

(a) The following in particular, but not exclusively, shall be deemed "activities" within the meaning of article 3, paragraph 2: the management, employment, use and enjoyment of an investment. The following in particular shall be deemed "less favourable" treatment within the meaning of article 3: restricting the purchase of raw or auxiliary materials, energy, fuels or productive or operational equipment of all kinds, or impeding the sale of products on the domestic or foreign market and other measures having similar effects. Measures which must be taken on grounds of public security and order, public health or morals shall not be deemed "less favourable" treatment within the meaning of article 3.

(b) The provisions of article 3 shall not oblige a Contracting Party to extend to natural persons or companies domiciled in the territory of the other Contracting Party tax privileges, exemptions or reductions which, according to its tax laws, are granted solely to natural persons and companies domiciled in its territory.

(c) The Contracting Parties shall, within the framework of their national legislation, give sympathetic consideration to applications for the entry and sojourn of persons of either Contracting Party who wish to enter the territory of the other Contracting Party in connection with an investment; the same shall apply to employed persons of either Contracting Party who wish to enter the territory of the other Contracting Party in connection with an investment and to remain there in order to take up employment. Applications for work permits shall likewise be given sympathetic consideration.

(4) Ad Article 4

Entitlement to compensation shall also exist if, because of governmental measures within the meaning of article 4, paragraph 2, the enterprise in which the investment has been made is encroached upon and considerable economic harm results.

(5) Ad Article 7

A transfer shall be deemed to have been “promptly” carried out within the meaning of article 7, paragraph 1, if effected within the period of time normally required for compliance with transfer formalities. The period shall commence with the submission of an appropriate application and may under no circumstances exceed two months.

(6) Whenever goods and persons are to be transported in connection with an investment, a Contracting Party shall neither exclude nor hinder the transport enterprises of the other Contracting Party and shall, if necessary, issue permits as required to carry out the transport.

(7) With the entry into force of this Treaty, the Treaty of 13 June 1989 between the Federal Republic of Germany and the Union of Soviet Socialist Republics concerning the promotion and reciprocal protection of investments shall cease to be effective with respect to relations between the Federal Republic of Germany and the Republic of Moldova.

DONE at Chisinau on 28 February 1994 in duplicate, in the German and Romanian languages, both texts being equally authentic.

For the Federal Republic of Germany:

For the Republic of Moldova: