

AGREEMENT between THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE and THE BELGO-LUXEMBURG ECONOMIC UNION on the PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of Singapore, and the Government of the Kingdom of Belgium, acting in its own name and on behalf of the Grand-Duchy of Luxemburg, under the Convention establishing the Belgo-Luxemburg Economic Union;

DESIRING to create favourable conditions for greater economic co-operation between them and in particular for investments by nationals of one Contracting Party in the territory of the other Contracting Party;

RECOGNISING that the encouragement and reciprocal protection of such investments will be conducive to stimulating individual business initiative and increasing prosperity in the territories of the Contracting Parties;

HAVE AGREED AS FOLLOWS:

Article 1. Definitions

For the purpose of this Agreement:

(1) The term 'investment' means every kind of assets and in particular, though not exclusively, includes:

- (a) movable and immovable property as well as any other rights in rem, such as mortgage, lien, pledge, usufruct and similar rights;
- (b) shares, stocks, debentures and other kinds of interests in companies;
- (c) title to money or to any performance having an economic value;
- (d) copyrights, industrial property rights, technical processes, trade names and goodwill; and
- (e) business concessions conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources.

(2) The term "nationals" means:

- (a) in respect of the Belgo-Luxemburg Economic Union, any natural person who, according to the laws of Belgium or Luxemburg, is a citizen of Belgium or Luxemburg and any juridical person of Belgium or Luxemburg such as companies, institutions or foundations with legal personality as well as partnership firms or limited partnerships and other associations without legal personality incorporated under the laws of Belgium or Luxemburg;
- (b) in respect of the Republic of Singapore, any natural person who is a citizen of the Republic within the meaning of the Constitution of the Republic of Singapore and any juridical person of Singapore such as companies, firms or associations with or without legal personality incorporated or constituted under the laws in force in Singapore.

Article 2. Promotion and Protection of Investments

(1) Each Contracting Party shall encourage and create favourable conditions for nationals of the other Contracting Party to make investments in its territory and, subject to its right to exercise powers conferred by its laws or to its administrative practice within the framework of its general economic policy, shall admit such investments.

(2) Investments made by nationals of either Contracting Party shall be accorded fair and equitable treatment in the territory of the other Contracting Party and shall enjoy continuous protection and security, excluding all unjustified or discriminatory measures which would de jure or de facto hinder their management, maintenance, utilisation, enjoyment or liquidation, contrary to the principle of the most favoured nation,

(3) Nevertheless, the treatment and protection referred to in the preceding paragraphs shall not include privileges which may be extended by either Contracting Party by virtue of regional arrangements for customs, trade, tariff or monetary matters or any agreement designed to lead in future to such regional arrangements.

Article 3. Approval of Investments

This Agreement shall, to the extent that a written approval is required, only extend to investments, whether made before or after the coming into force of this Agreement, which are specifically approved in writing by the Contracting Party in whose territory the investments have been or will be made. An investment so approved shall be subject to the laws in force in the territory of the Contracting Party concerned and to the conditions, if any, upon which such approval shall have been granted.

Article 4. Expropriation

(1) The Contracting Parties shall not make provisions to expropriate or nationalise or take any other measure having a similar effect which would either directly or indirectly deprive nationals of either Contracting Party of their investments within the territory of the other Contracting Party except for public purposes, and, in that case, in a non-discriminatory manner and against prompt, adequate and effective payment of compensation.

(2) This compensation shall, unless the party adversely affected proves otherwise, represent the market value of (he assets involved on the date of expropriation, nationalisation or dispossession and shall enjoy the right of free transferability.

Article 5. Repatriation of Investments

(1) Each Contracting Party shall guarantee to nationals of the other Contracting Party in respect of investments made in its territory the free transfer of, inter alia:

(a) returns from investments, including profits, interests, capital gains, dividends, royalties or fees;

(6) instalments in repayment of loans which are regularly contracted;

(c) proceeds from assignments, full or partial liquidation of any approved investment;

(d) compensation paid under Article 4.

(2) Each Contracting Party shall guarantee to nationals of the other Contracting Party authorised to exercise any activity on the former's territory the free transfer of the proceeds of their activities in accordance with the regulations and legislation concerning this matter.

Article 6. Exchange Rates

(1) The transfers referred to in Articles 4 and 5 shall be effected at the rates of exchange applicable on the date of transfer pursuant to the exchange regulations in force for the various classes of transactions.

(2) These rates shall in no case be less favourable than those accorded to nationals of the most favoured nation, in particular, under specific undertakings laid down in agreements or arrangements concluded in the matter of protection of investments.

Article 7. Subrogation

(1) In the event that either Contracting Party, as a result of a guarantee given by it within the framework of this Agreement, makes payment to its own nationals, the other Contracting Party acknowledges that the former Contracting Party is entitled by virtue of subrogation to exercise the rights and assert the claims of its own nationals.

(2) Any such payment made by one Contracting Party to its nationals in pursuance of this Agreement shall not affect the right of the nationals to take proceedings to the Inter- national Centre for Settlement of Investment Disputes in accordance with Article 9, nor shall it affect the right of the said nationals to carry on the proceedings presented to the Centre until the dispute is settled.

Article 8. Other Obligations

If the legislation of either Contracting Party or international obligations existing at present or established hereafter between the Contracting Parties in addition to this Agreement, result in a position entitling investments by nationals of the other Contracting Party to treatment more favourable than is provided for by this Agreement, such position shall not be affected by this Agreement.

Article 9. Reference to the International Centre for Settlement of Investment disputes

(1) Any legal dispute arising directly out of an investment between either Contracting Party and a national of the other Contracting Party shall, as far as possible, be settled amicably between the parties to the dispute.

(2) If any such dispute cannot be so settled within three months of a written notification of a sufficiently detailed claim, it shall upon the request of the national of the other Contracting Party be submitted to conciliation or arbitration of the International Centre for Settlement of Investment Disputes (called "the Centre" in this Agreement) established by the Convention on the Settlement of Investment Disputes between States and Nationals of other States opened for signature at Washington on 18th March, 1965, For this purpose, each Contracting Party hereby irrevocably consents in advance under Article 25 of the Convention to submit any such dispute to the Centre.

(3) A Contracting Party which is a party to a dispute shall not, at any stage of conciliation or arbitration proceedings or enforcement of an award, raise as an objection the fact that the national which is the other party to the dispute has received in pursuance of an insurance policy an indemnity in respect of some or all of its losses.

(4) Neither Contracting Party shall pursue through diplomatic channels any dispute referred to the Centre unless:

(a) the Secretary-General of the Centre finds that the dispute is manifestly outside the jurisdiction of the Centre, as provided in Article 36 (3) of the Convention, or the Arbitral Tribunal constituted under the Convention decides that the dispute is not within the jurisdiction of the Centre; or

(b) the other Contracting Party shall fail to abide by or to comply with the terms of any award of the Arbitral Tribunal.

Article 10. Disputes between the Contracting Parties

(1) Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, as far as possible, be settled through diplomatic channels.

(2) If any such dispute cannot be settled, it shall upon the request of either Contracting Party be submitted to arbitration. The arbitral tribunal (hereinafter called "the tribunal") shall consist of three arbitrators, one appointed by each Contracting Party and the third, who shall be the Chairman of the tribunal, appointed by agreement of the Contracting Parties.

(3) Within two months of receipt of the request for arbitration, each Contracting Party shall appoint one arbitrator, and within two months of such appointment of the two arbitrators, the Contracting Parties shall appoint the third arbitrator.

(4) If the tribunal shall not have 'been constituted within four months of receipt of the request for arbitration, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to appoint the arbitrator or arbitrators not yet appointed. If the President is a national of either Contracting Party or if he is unable to do so, the Vice-President may be invited to do so. If the Vice-President is a national of either Contracting Party or if he is unable to do so, the Member of the International Court of Justice next in seniority who is not a national of either Contracting Party may be invited to make the necessary appointments, and so on.

(5) The tribunal shall establish its own rules of procedure.

(6) The tribunal's decision shall be final and the Contracting Parties shall abide by and comply with the terms of its award.

(7) Each Contracting Party shall bear the costs of its own member of the tribunal and of its representation in the arbitration proceedings; the costs of the Chairman and the remaining costs shall be borne in equal parts by the Contracting Parties, The tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two Parties, and this award shall be binding on both Parties.

Article 11. Most Favoured Nation

Notwithstanding any provision in this Agreement to the contrary save Article 2 (3), the treatment, protection and guarantee accorded to investments under the provisions of this Agreement including the returns, management, use, enjoyment, and liquidation of such investments, shall be at least as favourable as that accorded to nationals of the most favoured nation.

Article 12. Entry Into Force and Duration

(1) The Contracting Parties shall notify each other when any necessary internal procedures for approving this Agreement have been complied with. This Agreement shall come into force on the date of the last notification.

(2) Subject to the following paragraphs, this agreement shall remain in force for a period of ten years.

(3) Unless either of the Contracting Parties notifies the other Contracting Party through diplomatic channels the former's confirmation of the expiry of this Agreement at least six months before the end of the said ten years, this Agreement shall be automatically renewed for further periods of ten years at a time. Either Contracting Party may, by giving at least six months' notice, terminate this Agreement in respect of any ten year period subsequent to the first ten years mentioned in paragraph (2) of this Article.

(4) On expiry or termination of this Agreement investments made while the Agreement was in force shall continue to enjoy protection for a further period of ten years.

IN WITNESS WHEREOF the undersigned representatives, duly authorised thereto by their respective Governments, have signed the present Agreement,

Done at Brussels, in duplicate, in the English Language, on 17th November, 1978,

HWANG PENG YUAN

For the Government of the Republic of Singapore

H. DEBRUYNE

For the Belgo-Luxemburg Economic Union.

Exchange of letters no. 1

Date 17th November, 1978

Excellency,

With reference to the Agreement between the Government of the Republic of Singapore and the Belgo-Luxemburg Economic Union concerning the Promotion and Protection of Investments signed today, } have the honour to state that it is an understanding between the parties that matters of taxation in the territories of both parties fall outside the scope of the said Agreement and that such matters shall be governed by any Avoidance of Double Taxation Treaty between the two parties and the domestic laws of each party.

Please let me have your confirmation that the above correctly sets out the understanding between the two parties.

Accept, Excellency, the renewed assurances of my highest consideration,

HWANG PENG YUAN For and on behalf of the Government of the Republic of Singapore,

His Excellency,

Mr. H. De Bruyne,

Minister for Foreign Trade,

Government of the Kingdom of Belgium.

Date 17th November, 1978

Excellency,

I have the honour to acknowledge receipt of your letter dated 17th November, 1978, which reads as follows;

"With reference to the Agreement between the Government of the Republic of Singapore and the Belgo-Luxemburg Economic Union concerning the Promotion and Protection of Investments signed today, I have the honour to state that it is an understanding between the parties that matters of taxation in the territories of both parties fall outside the scope of the said Agreement and that such matters shall be governed by any Avoidance of Double Taxation Treaty between the two parties and the domestic laws of each party.

Please let me have your confirmation that the above correctly sets out the understanding between the two parties". ' ;

I confirm the above understanding between the two parties.

Accept, Excellency, the renewed assurances of my highest consideration.

' H. DE BRUYNE For and on behalf of the

Belgo-Luxemburg

Economic Union.

His Excellency, Mr. Hwang Peng Yuan, Ambassador Extraordinary and Plenipotentiary of the Republic of Singapore.

Exchange of letters no. 2

Date 17th November, 1978

Excellency,

With reference to Article 2, paragraph (2) of the Agreement between the Government of the Republic of Singapore and the Belgo-Luxemburg Economic Union concerning the Promotion and Protection of Investments signed today, I have the honour to state that it is an understanding between the Contracting Parties that the treatment and protection of investments guaranteed in the Agreement shall if necessary be further determined in accordance with such rules and principles of public international law as may be applicable in particular cases.

I shall be obliged if you could kindly confirm the foregoing understanding.

Accept, Excellency, the renewed assurances of my highest consideration.

H. DE BRUYNE For and on behalf of the Belgo-Luxemburg Economie Union.

His Excellency, Mr. Hwang Peng Yuan, Ambassador Extraordinary and Plenipotentiary of the Republic of Singapore.

Date 17th November, 1978

Excellency,

I have the honour to acknowledge receipt of your letter dated 17th November, 1978, which reads as follows:

"With reference to Article 2, paragraph (2) of the Agreement between the Government of the Republic of Singapore and the Belgo-Luxemburg Economic Union concerning the Promotion and Protection of Investments signed today, I have the honour to state that it is an understanding between the Contracting Parties that the treatment and protection of investments guaranteed in the Agreement shall if necessary be further determined in accordance with such rules and principles of public international law as may be applicable in particular cases,

I shall be obliged if you could kindly confirm the foregoing understanding". I confirm the above understanding between the two parties.

Accept, Excellency, the renewed assurances of my highest consideration.

HWANG PENG YUAN For and on behalf of the Government of the Republic of Singapore.

His Excellency,

Mr. H, De Bruyne,

Minister for Foreign Trade,

Government of the Kingdom of Belgium,