

Agreement between the Government of the French Republic and the Government of the Republic of Lithuania on the reciprocal encouragement and protection of investments

The Government of the French Republic and the Government of the Republic of Lithuania, hereinafter referred to as the "Contracting Parties",

Desiring to enhance economic cooperation between the two States and to create favourable conditions for French investments in Lithuania and Lithuanian investments in France;

Convinced that the promotion and protection of such investments will be conducive to the stimulation of capital and technology transfer between the two countries in the interest of their economic development,

Have agreed as follows:

Article 1.

For the purposes of this Agreement:

1. the term "investment" means assets, such as property rights and interests of all kinds, and particularly but not limited to:

- a) Movable and immovable property as well as other rights in rem such as mortgages, bond and similar rights;
- b) Shares, stocks, actions and other forms of participation, even indirect minority, or to companies established in the territory of one of the contracting parties;
- c) The obligations and rights, claims to any performance having economic value;
- d) Copyrights, industrial property rights, such as patents, licences, trademarks, industrial designs or models, technical processes, trade names and goodwill;
- e) Concessions granted by law or under contract, including concessions related to the proposal, culture, extract or exploit natural resources including those situated in maritime area of contracting parties, provided that such assets must be or have been invested in accordance with the law of the Contracting Party in the territory or maritime area in which the investment is made after 29 December 1990. The assets invested by 29 December 1990 are registered in accordance with the legislation in force and shall be protected by this Agreement.

Any alteration of the form in which assets are invested shall not affect their classification as investment, provided that such change is not contrary to the legislation of the Contracting Party in the territory or maritime area in which the investment is made.

2. The term "national" means natural persons having the nationality of either Contracting Party in accordance with its legislation.

3. the term "companies" means any legal person or any entity having the character of a company established in the territory of one of the Contracting Parties in accordance with its law and having its registered office or controlled directly or indirectly by nationals of either Contracting Party, or by a juridical person with its head office in the territory of one of the Contracting Parties and in accordance with its law.

4. The term "returns" means all amounts yielded by an investment, such as profits, royalties or interests during a period of time.

Investment income and in case of reinvestment, income from their reinvestment shall enjoy the same protection as the investment.

5. This Agreement shall apply to the territory of each Contracting Party as well as the maritime area of each of the Contracting Parties, hereinafter referred to as defined as the economic zone and the continental shelf extending beyond the limits of the territorial waters of each of the Contracting Parties and on which they have, in accordance with international law, sovereign rights and jurisdiction for the purpose of exploration and exploitation of natural resources.

Article 2.

Each Contracting Party recognizes and encourages, within the framework of its laws and the provisions of this Agreement, all investments made by companies and nationals of the other party in its territory and in the maritime area.

Article 3.

Each Contracting Party undertakes to provide, in its territory and in the maritime area, fair and equitable treatment in accordance with the principles of international law, to investments of nationals and companies of the other party and to ensure the enjoyment of the right thus recognized is hampered in either law or in fact.

Article 4.

Each Contracting Party shall, in its territory and in the maritime area to nationals or companies of the other contracting party as regards their investments and activities associated with such investments, treatment no less favourable than that accorded to its own nationals or companies or the treatment accorded to nationals or companies of the most favoured nation, whichever is more favourable. In this connection, nationals who are authorised to work in the territory and in the maritime area of either Contracting Party shall enjoy adequate physical facilities for the performance of their professional activities.

This treatment does not extend to the privileges which either Contracting Party accords to nationals or companies of any third State by virtue of its association or participation in a free trade area, customs union, common market or any other form of regional economic organization.

The provisions of this article shall not apply to tax matters.

Article 5.

1. Investments made by companies or nationals of either Contracting Party shall enjoy, in the territory and in the maritime zones of the other Contracting Party, full protection and security.

2. The Contracting Parties shall not take any measures of expropriation or nationalization or any other measures having equivalent effect and lead to dispossession, directly or indirectly, to nationals and companies of the other party investments belonging to them in their territory and in the maritime area except for a public purpose and provided that they are neither discriminatory nor contrary to a specific engagement.

The dispossession measures that might be taken shall be subject to the payment of prompt and adequate compensation in the amount calculated on the real value of the investment concerned must be assessed in relation to a normal economic situation prevailing before such measures are known to the public.

Such compensation, its amount and has no later than the date of dispossession. the compensation shall be paid without delay, and effectively realisable freely transferable. It produces until the date of payment, shall include interest at the market rate of interest.

3. Companies or nationals of either Contracting Party whose investments have suffered losses due to a war or any other armed conflict, revolution, state of emergency or national revolt occurring in the territory or maritime zones of the other contracting party benefit, on the part of this latter treatment no less favourable than that accorded to its own nationals or companies or to those of the most favoured nation.

Article 6.

Each Contracting Party in the territory or maritime area in which the investments were made by nationals or companies of the other Contracting Party shall grant those nationals or companies the free transfer of:

a) Profits, dividends, interests and other current income;

- b) Royalties arising out of intangible rights referred to in paragraph 1 (d) and (e) of Article 1;
- c) Payments made for the reimbursement of loans contracted regularly;
- d) The proceeds of the sale of or the partial or total liquidation of the investment, including the value of the investment capital;
- e) Compensation of dispossession or loss as provided for in Article 5, paragraphs 2 and 3 above.

The nationals of either Contracting Party who have been authorised to work in the territory or maritime zones of the other Contracting Party in respect of an approved investment shall also be authorised to transfer their country of origin in a proportion appropriate remuneration.

The transfers referred to in the preceding paragraphs shall be effected without delay formally at the normal rate of exchange applicable on the date of transfer.

Article 7.

If the legislation of either contracting party provides a guarantee for investments abroad, it may be granted within the framework of a case-by-case review, to investments made by companies or nationals of that Party in the territory or maritime zones of the other party.

Investments of nationals and companies of one Contracting Party in the territory or maritime zones of the other party may request the Security referred to in the preceding paragraph only if they have previously obtained accreditation of that other party.

Article 8.

1. Any investment dispute between a Contracting Party and a national or company of the other Contracting Party shall as far as possible, be settled amicably between the two parties concerned.

2. Any dispute has not been settled within a period of six months from the time at which it was raised by either party to the dispute shall be submitted at the request of either of the Parties to the Arbitration Tribunal for a final settlement, in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law adopted by the United Nations General Assembly on 15 December 1976.

4. If both Contracting Parties shall have become parties to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States done at Washington on 18 March 1965, the dispute may be submitted at the request of either party, to the dispute to arbitration by the International Centre for Settlement of Investment Disputes (ICSID).

Article 9.

If one of the Contracting Parties, by virtue of a guarantee given in respect of an investment in the territory or maritime zones of the other party makes its payment to one of its nationals or companies, it is thereby entered into the rights and claims of the national or company.

Such payments shall not affect the rights of the holder of the security to resort to ICSID or to continue its actions brought before the Tribunal until the end of the procedure.

Article 10.

Investments in respect of a particular undertaking of one of the Contracting Parties with respect to nationals and companies of the other Contracting Party shall be governed, without prejudice to the provisions of this Agreement, the terms of that commitment to the extent that it is more favourable provisions than those laid down in this Agreement.

Article 11.

The Contracting Parties shall consult each other through diplomatic channels, if necessary, in order to examine the application of this Agreement.

Article 12.

1. Disputes concerning the interpretation or application of this agreement should, if possible, be settled through diplomatic channels.
2. If, within a period of six months from the time at which it was raised by either contracting party, the dispute is not settled, it shall be submitted, at the request of either contracting party to an arbitral tribunal.
3. The Tribunal shall be constituted for each individual case as follows: each Contracting Party shall appoint one member and these two Members shall designate by common agreement, a national of a third State who shall be chairman appointed by both contracting parties. All members shall be appointed within two months from the date one Contracting Party has informed the other contracting party of its intention to submit the dispute to arbitration.
4. If the periods specified in paragraph 3 above have not been made, either Contracting Party, in the absence of any other agreement, invite the Secretary-General of the United Nations to make the necessary appointments. If the Secretary-General is a national of either Contracting Party or if he is otherwise prevented from exercising this function, the most senior Under-Secretary-General who is not a national of either Contracting Party shall make the necessary appointments.
5. The arbitral tribunal shall reach its decisions by a majority of votes. Such decisions shall be final and enforceable automatically to the contracting parties.

The tribunal shall determine its own rules of procedure. It shall interpret the award at the request of either Contracting Party. Unless the Tribunal provides otherwise, in light of the particular circumstances, the expenses of the arbitral proceedings, including the business of the arbitrators shall be shared equally between the parties.

Article 13.

Each Party shall notify the other of the completion of the internal procedures required for the entry into force of this Agreement, which shall take effect one month after the date of receipt of the last notification.

This agreement is concluded for an initial period of fifteen years. It shall remain in force after the term unless one of the Parties denounces through diplomatic channels with one year notice.

On expiry of the period of validity of the present Agreement investments over which it was in force will continue to benefit from the protection of its provisions for a further period of fifteen years.

Done in two originals, each in the French and Lithuanian languages, both texts being equally authentic.

Signed in French in Paris, 23 April 1992.

For the Government of the French Republic:

Michel Charasse

For the Government of the Republic of Lithuania:

Osvaldas Balakauskas

Exchange of Letters

Paris, April 23, 1992.

Dear Mr. Ambassador

I have the honour to refer to the Agreement signed today between the Government of the French Republic and the Government of the Republic of Lithuania on the reciprocal encouragement and protection of investments and to inform you that the interpretation of this Agreement is as follows, with respect to Article 3:

(a) Any restriction on the purchase and transportation of raw and auxiliary materials, energy and fuel, as well as of

production and operating facilities of any kind, any impediment to the sale and transportation of products within the country and abroad, as well as any other measures having a similar effect, shall be considered as legal or de facto impediments to fair and equitable treatment;

(b) The Contracting Parties shall, within the framework of their domestic legislation, give sympathetic consideration to applications for entry and authorization to reside, work and travel submitted by nationals of a Contracting Party in connection with an investment made on the territory or in the maritime zone of the other Contracting Party.

With regard to Article 6:

For the application of this Article, it is specified that on the date of signature of this Agreement and temporarily, for a limited transitional period, the currency in Lithuania is not convertible. The Government of Lithuania undertakes to ensure that this situation will be applied in a non-discriminatory manner.

I should be grateful if you would inform me of your Government's agreement with the contents of this letter.

Please accept, Mr. Ambassador, the assurances of my highest consideration.

MICHEL CHARASSE

Paris, April 23, 1992.

Dear Minister

I have the honor to acknowledge receipt of your letter of today's date, which reads as follows

"I have the honour to refer to the Agreement signed today between the Government of the French Republic and the Government of the Republic of Lithuania on the reciprocal encouragement and protection of investments and to inform you that the interpretation of this Agreement is as follows, with respect to Article 3

(a) Any restriction on the purchase and transportation of raw and auxiliary materials, energy and fuel, as well as of production and operating facilities of any kind, any impediment to the sale and transportation of products within the country and abroad, as well as any other measures having a similar effect, shall be deemed to be de jure or de facto impediments to fair and equitable treatment;

(b) The Contracting Parties shall, within the framework of their domestic legislation, give sympathetic consideration to applications for entry and authorization to reside, work and travel submitted by nationals of a Contracting Party in connection with an investment made on the territory or in the maritime zone of the other Contracting Party.

With regard to Article 6:

For the application of this Article, it is specified that on the date of signature of this Agreement and temporarily, for a limited transitional period, the currency in Lithuania is not convertible. The Government of Lithuania undertakes to ensure that this situation will be applied in a non-discriminatory manner.

I should be grateful if you would inform me of your Government's agreement with the contents of this letter."

I have the honor to confirm the agreement of my Government with the foregoing.

Please accept, Mr. Minister, the assurances of my highest consideration.

OSVALDAS BALAKAUSKAS