

Agreement Between The Government Of The Republic Of Latvia And The Government Of The Republic Of Iceland On The Mutual Promotion And Protection Of Investments

The Government of the Republic of Latvia and the Government of the Republic of Iceland, hereinafter referred to as the Contracting Parties,

INTENDING to create favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party,

RECOGNISING that mutual promotion and reciprocal protection of such investments will be conducive to stimulating business and the private initiative of investors thus and will increase prosperity in both States,

DESIRING to intensify and encourage economic cooperation for investment in both States on the basis of equality and mutual benefits,

HAVE AGREED as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investment" means every kind of asset owned by an investor of one Contracting Party in the territory of the other Contracting Party, in accordance with the laws and regulations of the latter, and includes in particular:

- (a) an enterprise, irrespective of its legal form;
- (b) movable and immovable property, including land property, and any other property rights such as mortgages, liens, pledges, privileges, guarantees and similar rights;
- (c) shares, stocks and any other kind of equity participation in an enterprise;
- (d) returns reinvested, claims to money and claims to any performance or other rights relating to service having a financial value;
- (e) industrial and intellectual property rights, including in particular copyrights, patents, industrial designs, trademarks, trade names, technical processes, know-how and goodwill;
- (f) business concessions conferred by law or under contract permitted by law, including concessions to search for, cultivate, extract and exploit natural resources;
- (g) rights under contracts, including turnkey, construction, management, production or revenue sharing contracts.

2. The term "investor" shall mean with regard to each Contracting Party:

- (a) any natural person who has nationality of, or who is permanently residing in, a Contracting Party in accordance with its applicable laws; or
- (b) a legal person or any other entity constituted or organised under the applicable law of a Contracting Party, whether or not for profit, and whether private or government owned or controlled, and includes a corporation, trust, partnership, sole proprietorship, joint venture, association or organisation.

3. The term "returns" shall mean the lawful amounts yielded by an investment, and includes in particular: profit, interest, royalties, fees, dividends, capital gains and other lawful income derived from investments.

4. The term "territory" shall mean:

(a) the land territory, internal waters, and the territorial sea of a Contracting Party; and

(b) the maritime areas beyond the territorial sea with respect to which a Contracting Party exercises sovereign rights or jurisdiction in accordance with international law.

Article 2. Mutual Promotion and Protection of Investment

1. Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party for investment in its territory and admit such investment in accordance with its laws and regulations.

2. Investments of investors of either Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Contracting Party. Each Contracting Party agrees that without prejudice to its laws and regulations it shall not take any unreasonable or discriminatory measures against the management, maintenance, use, enjoyment or disposal of investments in its territory of investors of the other Contracting Party. Each Contracting Party shall observe any obligation it may have entered into with regard to investments of investors of the other Contracting Party.

Article 3. Treatment of Investments

1. Each Contracting Party shall accord investments made by investors of the other Contracting Party in its territory a fair and equitable treatment no less favourable than that which it accords to investments of its own investors or to investments of investors of any third State, whichever treatment is more favourable.

2. Each Contracting Party shall accord in its territory to investors of the other Contracting Party, as regards the management, use, enjoyment or disposal of their investments, a fair and equitable treatment no less favourable than that which it accords to its own investors or to investors of any third State, whichever treatment is more favourable.

3. Each Contracting Party may have in its legislation limited exceptions to national treatment provided for in paragraphs 1 and 2 of this Article.

4. The provisions of paragraphs 1 and 2 of this Article shall not be construed so as to oblige one Contracting Party to extend to investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from:

(a) any existing or future customs union, free trade area or similar international agreement or agreement for facilitating frontier trade to which either of the Contracting Parties is or may become a party; or

(b) any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation.

Article 4. Expropriation and Compensation

1. Investments made by investors of either Contracting Party shall not be expropriated, nationalised or subjected to measures having effect equivalent to expropriation or nationalisation (hereinafter referred to as expropriation) in the territory of the other Contracting Party except for:

(a) public purpose related to the internal needs of the expropriating Party,

(b) on a non-discriminatory basis,

(c) in accordance with due process of law, and

(d) prompt, adequate and effective compensation.

2. The compensation shall amount to the fair market value of the investment expropriated immediately before the expropriation or before the impending expropriation became public knowledge and shall include interest at a normal rate from the date of expropriation until the date of actual payment. It shall be paid without undue delay, be effectively realisable in convertible currency and freely transferable. The investor affected shall have a right, under the law of the Contracting Party making the expropriation, to prompt review of the legality of the measure taken against the investment by a judicial or other competent and independent authority of that Party, of his case and of the valuation of his investment and the payment of compensation in accordance with the principles set out in this Article.

Article 5. Protection from Strife

Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war, other armed conflicts, a state of national emergency or other similar circumstances, shall be accorded by the latter Contracting Party treatment with regard to restitution, indemnification, compensation or other settlement, if any, no less favourable than that which the latter Contracting Party accords to its own investors or investors of any third State, whichever of these standards is the more favourable from the point of view of the investor. Resulting payments shall be made without delay and be freely transferable.

Article 6. Transfers

1. Each Contracting Party shall, subject to its laws and regulations, guarantee investors of the other Contracting Party the transfer of their investments and returns held in the territory of the former Contracting Party without delay. Such transfers shall include in particular:

- (a) initial capital, capital gains, profits, dividends, interest and other income;
- (b) returns;
- (c) payment made pursuant to a loan agreement in connection with an investment;
- (d) royalties and fees;
- (e) proceeds from the sale or liquidation of all or any part of an investment;
- (f) payments of compensation under Articles 4 and 5;
- (g) payments arising out of the settlement of a dispute;
- (h) earnings and other remuneration of personnel engaged from abroad in connection with an investment.

2. Transfers mentioned above shall be made in a freely convertible currency at the prevailing exchange rate used by the central bank of the transferring Contracting Party accepting the investment on the date of transfer.

Article 7. Subrogation

If a Contracting Party or its designated Agency makes payment to an investor under a guarantee it has granted to an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognise the transfer of any right or claim of such investor to the former Contracting Party or its designated Agency and recognise the subrogation of the former Contracting Party or its Agency to such a right or claim to the same extent as its predecessor in title. It shall enforce the claims of that investor and

Assume the obligations related to that investment. The subrogated right or claim shall not be greater than the original right or claim of the said investor.

Article 8. Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should, as far as possible, be settled through negotiations between the Contracting Parties.

2. If a dispute between the Contracting Parties cannot thus be settled within six months after the beginning of negotiations, 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:

(a) Within three months from the receipt of the request for arbitration, each Contracting Party shall appoint one member of the tribunal. These two members shall then select a national of a third State who on approval by the 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.

(b) If within any of the periods specified above the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of either Contracting Party or is prevented from discharging the said function,

the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a national of either Contracting Party or if he, too, is prevented from discharging the said function, the member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointments.

4. The arbitral tribunal determines its own procedure. The tribunal reaches its decision on the basis of the provisions of the present Agreement and of the general principles and rules of international law. The arbitral tribunal reaches its decision by a majority vote. Such decision shall be final and binding on both Contracting Parties.

5. 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.

Article 9. Disputes between an Investor and a Contracting Party

1. Any dispute between an investor of one Contracting Party and the other Contracting Party in connection with an investment in the territory of that other Contracting Party shall, as far as possible, be settled amicably through negotiations between the parties to the dispute.

2. If the dispute cannot be settled through negotiations within six months from the date of written notification of the dispute, either party to the dispute shall be entitled to submit the dispute to the competent court of the Contracting Party accepting the investment.

3. If a dispute involving the amount of compensation for expropriation cannot be settled within six months after resort to negotiations as specified in paragraph 1 of this Article, it may be submitted at the request of either party to the International Centre for Settlement of Investment Disputes (ICSID) or to an ad hoc arbitral tribunal. Any dispute concerning other matters between an investor of either Contracting Party and the other Contracting Party may be submitted by mutual agreement to an ad hoc arbitral tribunal. The provisions of this paragraph shall not apply if either party to the dispute has resorted to the procedure specified in paragraph 2 of this Article.

4. The decisions by the arbitral tribunal of the International Centre for Settlement of Investment Disputes shall be final and binding on both parties to the dispute. Both Contracting Parties shall commit themselves to the enforcement of the decision in accordance with their respective domestic law.

5. An ad hoc arbitral tribunal referred to in paragraph 3 of this Article shall be constituted for each individual case in the following way. Within two months of the receipt of the request for arbitration, each party to the dispute shall appoint one member of the tribunal. Those two members shall then select a national of a third State which has diplomatic relations with the two Contracting Parties as Chairman. The Chairman shall be selected within two months from the date of appointment of the other two members. If within the period specified above the tribunal has not been constituted, either party to the dispute may invite the Secretary-General of the International Centre for Settlement of Investment Disputes to make the necessary appointments. If the Secretary-General is a national of either Contracting Party or is otherwise prevented from discharging the said function, the next most senior member of the International Centre for Settlement of Investment Disputes who is not a national of either Contracting Party shall be invited to make the necessary appointments.

6. The ad hoc arbitral tribunal shall determine its own procedure. However, the tribunal may, in the course of determination of procedure, take as guidance the Arbitration Rules of the International Centre for Settlement of Investment Disputes.

7. The ad hoc arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding on both parties to the dispute. Both Contracting Parties shall commit themselves to the enforcement of the decision in accordance with their respective domestic law.

8. The ad hoc arbitral tribunal shall reach its decision in accordance with the law of the Contracting Party to the dispute accepting the investment, including its rules on the conflict of laws, the provisions of this Agreement and generally recognized principles of international law.

9. Each party to the dispute shall bear the cost of its own member of the ad hoc arbitral 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 parties to the dispute.

Article 10. 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 investors of the other

Contracting Party to treatment more favourable than is provided for in this Agreement, such position shall not be affected by this Agreement. Each Contracting Party shall observe any commitment in accordance with its laws additional to those specified in this Agreement entered into by the Contracting Party with investors of the other Contracting Party as regards their investments.

Article 11. Applicability of this Agreement

This Agreement shall apply to all investments which are made prior to or after its entry into force by investors of either Contracting Party in accordance with the laws and regulations of the other Contracting Party in the territory of the latter.

Article 12. Consultations

1. Representatives of the two Contracting Parties shall hold meetings from time to time for the purpose of:

- (a) reviewing the implementation of this Agreement;
- (b) exchanging legal information and information on investment opportunities;
- (c) forwarding proposals on promotion of investment;
- (d) studying possible amendments of this agreement; and
- (e) studying other issues in connection with investments.

2. The meetings shall be held on the proposal of one Contracting Party, at a place and at a time agreed upon by the Contracting Parties.

Article 13. Entry Into Force, Duration and Termination

1. This Agreement shall enter into force on the first day of the following month after the date on which both Contracting Parties have notified each other in writing that their respective internal legal procedures and constitutional requirements for entry into force have been fulfilled.

2. At any time after the date on which this Agreement has entered into force either Contracting Party may give notice to the other Contracting Party of its withdrawal from the Agreement. Any such termination of the Agreement shall take effect on the expiry of six months from the date of the receipt of the notice of withdrawal by the other Contracting Party.

3. With respect to investments made prior to the date of termination of this Agreement, the provisions of this Agreement shall continue to be effective for a further period of ten years from such date of termination.

IN WITNESS WHEREOF, the duly authorized representatives of their respective Governments have signed this Agreement.

Done in duplicate at Riga on June 11, 1998 in the English language.

For the Government of the Republic of Iceland For the Government of the Republic of Latvia