

Agreement between the Kingdom of Norway and the Czech and Slovak Federal Republic on the mutual promotion and protection of investments

The Kingdom of Norway and the Czech and Slovak Federal Republic hereinafter referred to as The Contracting Parties

Desiring to develop the economic cooperation between the two states;

Preoccupied with encouraging and creating favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party on the basis of equality and mutual benefit;

Conscious that the mutual promotion and protection of investments, according to the present Agreement will stimulate the initiative in this field;

Taking note of the final act of the conference on security and cooperation in Europe

Have agreed as follows:

Article I. Definitions

For the purpose of the present Agreement:

1. The term «Investment» shall comprise every kind of asset invested by an investor of one Contracting Party in the territory of the other Contracting Party, provided that the investment has been made in accordance with the laws and regulations of the other Contracting Party and shall include in particular, though not exclusively:

(i) Movable and immovable property and any other property rights such as mortgages, liens, pledges and similar rights;

(ii) Shares, debentures or any other forms of participation in companies;

(iii) Claims to money which has been used to create an economic value or claims to any performance under contract having an economic value;

(iv) copyrights, industrial property rights (such as patents, Utility models, industrial designs or models, trade or service marks, trade names, indications of origin), know-how and good-will;

(v) business concessions conferred by law, or under contract if permitted by law, including concessions to search for, cultivate, extract and exploit natural resources.

2. The term «Returns» shall mean the lawful amounts yielded by an investment such as profit, interest, royalties, fees, dividends and other lawful income derived from investments.

3. The term «Investor» shall mean with regard to each Contracting Party:

a) A natural person having the citizenship of that Contracting Party in accordance with its laws;

b) Any corporation, company, firm, enterprise and association incorporated or constituted under the law in force in the territory of that Contracting Party – with a seat in its territory.

4. The term «Territory» shall mean the territory of the Czech and Slovak Federal Republic and the territory of the Kingdom of Norway including the territorial sea as well as the continental shelf over which the Kingdom of Norway exercises in accordance with international law, sovereign rights for the purpose of exploration and exploitation of the natural resources of such areas.

Article II. Promotion and Protection of Investments

Each Contracting Party shall promote and encourage in its territory investments of investors of the other Contracting Party and accept such investments in accordance with its laws and regulations and accord them equitable and reasonable treatment and protection.

Article III. Most Favoured Nation Treatment

1. Investments made by investors of one Contracting Party in the territory of the other Contracting Party, as also the returns therefrom, shall be accorded treatment no less favourable than that accorded to investments made by investors of any third State.

2. The treatment granted under paragraph 1 of this Article shall not apply to:

- Any advantage accorded to investors of a third state by the other Contracting Party based on any existing or future customs or economic union, agreement establishing a free trade area or similar international agreement to which either of the Contracting parties is or may become a Party;

- Any advantage accorded to investors of a third state by the other Contracting Party by virtue of a double taxation agreement or other agreements regarding matters of taxation or any domestic legislation relating to taxation.

Article IV. Compensation for Losses

Investors of one Contracting Party whose investments suffer losses in the territory of the other Contracting Party owing to war, revolution, other armed conflict, state of national emergency or other similar events shall be accorded treatment no less favourable than that accorded to investors of any third state as regards restitution, indemnification, compensation or other valuable consideration. Such payments shall be freely transferable.

Article V. Expropriation and Compensation

1. Investments made by investors of one Contracting Party in the territory of the other Contracting Party cannot be expropriated, nationalized or subjected to other measures having a similar effect, all such measures hereinafter referred to as «Expropriation», unless when the following conditions are fulfilled:

(i) The expropriation shall be done for public interest and under the law of that Contracting Party;

(ii) It shall not be discriminatory;

(iii) It shall be done only against compensation.

2. Such compensation shall amount to the market value of the investment immediately before the date of expropriation and shall be paid without delay. The compensation shall include interest, computed from the first day following the date of expropriation until the date of payment, at a rate based on libor. The payment of such compensation shall be effectively realizable and freely transferable in convertible currency.

Article VI. Transfers

1. Each Contracting Party guarantees, subject to and to the extent permitted by its law and regulations, to the investors of the other Contracting Party, in respect of their investments, without undue delay the transfer of:

(i) Returns, royalties and other income resulting from investments;

(ii) The invested capital or the proceeds of the total or partial liquidation or alienation of an investment;

(iii) Funds in repayment of borrowings in connection with an investment and interest due;

(iv) Capital and additional sums for the maintenance or development of the investment;

(v) The earnings of the citizens of the other Contracting Party who work within the framework of an investment.

2. Transfers of currency pursuant to paragraph 1 of this Article shall be made without delay in the convertible currency in which the investment has been made or in any other convertible currency if so agreed by the investor, at the official rate of exchange in force at the date of transfer.

Article VII. Subrogation

A Contracting Party or its designated agency having, by virtue of a guarantee given for an investment made in the territory of the other Contracting Party, made payment to one of its own investors is, by virtue of subrogation, entitled to exercise the rights and actions as well as to assume the obligations of the said investor. The subrogation in the rights and obligations of the ensured investor extends also to the rights of transfers mentioned in Article VI of the present Agreement. The paying Contracting Party cannot obtain rights or assume obligations greater than those of the ensured investor.

Article VIII. Disputes between a Contracting Party and an Investor

Any legal dispute between one Contracting Party and an investor of the other Contracting Party concerning an investment of the latter in the territory of the former which has not been amicably settled during three months from written notification of a claim may, at the request of the investor to the dispute, be submitted for settlement either to:

- a) The Contracting Party's court, at all instances, having territorial jurisdiction;
- b) «The International Centre for Settlement of Investment Disputes», for the application of the arbitration procedures provided by the Washington convention of 18 March 1965 on the «Settlement of Investment Disputes between States and Nationals of other States» in the event both Contracting Parties shall have become a Party to this convention; or
- c) An international ad hoc arbitral tribunal established under the arbitration rules of the United Nations' Commission on International Trade Law as then in force. The parties to the dispute may agree in writing to modify these rules. The award shall be recognized and enforced by the Contracting Parties in accordance with the 1958 New York Convention on the recognition and enforcement of foreign arbitral awards.

Article IX. Disputes between the Contracting Parties

1. The representatives of the Contracting Parties shall whenever needed hold meetings in order to review the implementation of the present Agreement. These meetings shall be held on the proposal of one Contracting Party, at a place and at a time agreed upon through diplomatic channels.
2. 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.
3. 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.
4. Such an arbitral tribunal shall be constituted for each individual case in the following way:

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 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.

5. If within the periods specified in paragraph 4 of this Article 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.
6. 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.
7. 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 X. Applicability of the Present Agreement

The Present Agreement shall apply to investments made after 1 January 1950 in the territory of a Contracting Party in accordance with its laws and regulations.

Article XI. Entry Into Force

Each of the Contracting Parties shall notify the other of the completion of the procedures required by its law for bringing the present Agreement into force. The present Agreement shall enter into force thirty days after the date of the receipt of the second notification.

Article XII. Duration and Termination

1. The present Agreement shall remain in force for a period of ten years. It shall be extended tacitly for further periods of ten years, except in the case of denunciation in writing by one of the Contracting Parties, at least one year before the expiry of each period of validity.

2. With respect to investments made prior to the receipt of the notification of expiry, the provisions of Article I to X shall remain in force for a further period of ten years from the date of the receipt of the notification.

In witness whereof the undersigned, duly authorized thereto by their respective Governments, have signed the present Agreement.

Done at Oslo on 21 May 1991.

In two originals in the Norwegian, Czech and English languages, each text being equally authentic.

In case of divergence the English text shall prevail.

For the Czech and Slovak Federal Republic:

Ing. Václav Valeš

Deputy Prime Minister of the Czechoslovak Socialist Republic

For the Kingdom of Norway:

Eldrid Nordbo

Minister of Trade and Maritime Affairs of the Kingdom of Norway