Agreement between the Government of the Kingdom of Norway and the Government of the Republic of Lithuania on the Promotion and Mutual Protection of Investments

The Government of the Kingdom of Norway and the Government of the Republic of Lithuania (each hereinafter referred to as a «Contracting Party»),

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,

Have agreed as follows:

Article I. Definitions

For the Purpose of the present Agreement:

1. The term «Investment» means every kind of asset invested in the Territory of one Contracting Party in accordance with its laws and regulations by an Investor of the other Contracting Party and includes 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) Industrial and intellectual property rights, such as technology, know-how, trade-marks and goodwill;

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

Goods that under a leasing agreement are placed at the disposal of a lessee in the Territory of one Contracting Party by a lessor being a national of the other Contracting Party or a legal person having its seat in the Territory of that Contracting Party, shall be treated not less favourably than an investment. 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:

a) With regard to the Kingdom of Norway: a natural person having the nationality of the Kingdom of Norway in accordance with its laws. With regard to the Republic of Lithuania: a natural person having the citizenship of the Republic of Lithuania in accordance with its laws;

b) With regard to each Contracting Party: any corporation, company, firm, enterprise, organization or association incorporated or constituted under the law in force in the Territory of that Contracting Party.

4. The term «Territory» shall mean:

The Territory of the Kingdom of Norway and the Territory of the Republic of Lithuania including the territorial sea, as well as the continental shelf over which the state concerned exercises, in accordance with international law, sovereign rights for the purpose of exploration and exploitation of the natural resources of such areas.

Article II. Applicability of the Present Agreement

The present agreement shall apply to investments made after 29 december 1990 in the Territory of a Contracting Party in accordance with its laws and regulations.

Article III. 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. Such investments shall be subject to the laws and regulations of the Contracting Party in the Territory of which the investments are made.

Article IV. 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 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 or similar international agreement, or free trade agreement to which either of the Contracting Parties is or becomes a Party. Neither shall such treatment relate to any advantage which either Contracting Party accords to Investors of a third state by virtue of a double taxation agreement or other agreements regarding matters of taxation or any domestic legislation relating to taxation.

Article V. Compensation for Losses

Investors of one Contracting Party whose investments in the Territory of the other Contracting Party suffer losses owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot in the Territory of the other Contracting Party, shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, no less favourable than that which the latter Contracting Party accords to Investors of a third state.

Article VI. 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») except when the following conditions are fulfilled:

(i) The expropriation shall be done for public interest and under domestic legal procedures;

(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 for the appropriate currency and corresponding period of time. The payment of such compensation shall be realizable and freely transferable.

Article VII. Transfers

1. Each Contracting Party shall accord to the Investors of the other Contracting Party, upon discharging all tax obligations, the free 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) The earnings of the employees who work within the framework of an investment.

2. Transfers of convertible currency in possesion pursuant to the present agreement 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 VIII. Subrogation

1. 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 transfer mentioned in article VII, of the present agreement. The paying Contracting Party cannot obtain rights or assume obligations greater than those of the ensured Investor.

Article IX. Disputes between a Contracting Party and an Investor

1. Any dispute which may arise between an Investor of one Contracting Party and the other Contracting Party in connection with an investment on the Territory of that other Contracting Party shall be subject to negotiations between the Parties in dispute.

2. If any dispute between an Investor of one Contracting Party and the other Contracting Party continues to exist after a period of three months, the Investor shall be entitled to submit the case:

a. Either to the international centre for settlement of investment disputes having regard to the applicable provisions of the convention on the settlement of investment disputes between states and nationals of other states opened for signature at Washington d.c. on 18 march 1965,

b. Or in case both Contracting Parties have not become Parties to this convention, to an arbitrator or international ad hoc arbitral tribunal established under the arbitration rules of the united nations commission on international trade law. The Parties to the dispute may agree in writing to modify these rules. The arbitral award shall be final and binding on both Parties to the dispute.

Article X. 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:

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.
4. If within the periods specified in paragraph (3) 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.

5. 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.

6. Each Contracting Party shall bear the cost of its own member of the tribunal and of its representation in the arbitral proceedings, the arbitral tribunal shall determine how the costs of the proceedings are to be shared between the Contracting Parties.

Article XI. Consultations

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.

Article XII. Amendments

At the time of entry into force of the present agreement or at any time thereafter the provisions of the present agreement may be amended in such manner as may be agreed between the Contracting Parties. Such amendments shall enter into force when the Contracting Parties have notified each other that the constitutional requirements for the entry into force have been fulfilled.

Article XIII. Entry Into Force

Each of the contacting Parties shall notify to 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 XIV. Duration and Termination

The present agreement shall remain in force for a period of ten years. It may be terminated upon written notice by each Contracting Party. 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 six months before the expiry of each period of validity. With respect to investments made prior to the receipt of the notification of expiry, the provisions of article i to XII 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 authorised thereto by their respective governments, have signed the present agreement.

Done at Vilnius on the 16 August 1992 in duplicate in the Norwegian, Lithuanian and English languages, all texts being equally authentic.

In case of divergencies of interpretation the English text shall prevail.