

AGREEMENT BETWEEN THE ARGENTINE REPUBLIC AND THE CZECH REPUBLIC ON PROMOTION AND RECIPROCAL INVESTMENT PROTECTION

The Argentine Republic and the Czech Republic, hereinafter referred to as the "Contracting Parties",

Desiring to intensify economic cooperation to the mutual benefit of both States,

Intending to create and maintain favourable conditions for investments by investors of one State in the territory of the other State,

Conscious that the promotion and reciprocal protection of investments, according to the present Agreement, will stimulate business initiatives in this field,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investment" means every kind of asset invested in connection with economic activities by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the latter's laws. It includes, in particular, though not exclusively:

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

(b) Shares, stocks, debentures and any other form of participation in a company;

(c) Claims to money or to any performance having an economic value and associated with an investment; loans only being included when they are directly related to a specific investment;

(d) Intellectual property rights including in particular copyrights, patents, industrial designs, trademarks, trade names, technical processes, know-how, trade secrets, and goodwill;

(e) Any right conferred by law or under contract and any licenses and permits pursuant to law, including the concessions to search for, cultivate, extract or exploit natural resources.

Any alteration of the form in which assets are invested shall not affect their character as investment.

2. The term "investor" means:

(a) Any natural person who is a national of a Contracting Party in accordance with its laws;

(b) Any legal person constituted or incorporated in any other way under the laws and regulations in force in either Contracting Party and having its seat in the territory of that Contracting Party.

3. The term "returns" means all amounts yielded by an investment and in particular, though not exclusively, includes profits, interests, capital gains, dividends, royalties or fees.

4. The term "territory" means the territory of the Czech Republic over which it exercises, in accordance with international law, sovereignty, sovereign rights and jurisdiction or the territory of the Argentine Republic, including the territorial sea and those maritime areas adjacent to the outer limit of the territorial sea, over which the Argentine Republic may, in accordance with international law, exercise sovereign rights or jurisdiction.

Article 2. Promotion and Protection of Investments

1. Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make investments in its territory and shall admit such investments 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. Neither Contracting Party shall in any way impair the management, maintenance, use, enjoyment or disposal thereof through unjustified or discriminatory measures.

Article 3. National and Most Favoured-nation-treatment

1. Each Contracting Party shall in its territory accord to investments and returns of investors of the other Contracting Party treatment which is fair and equitable and not less favourable than that which it accords to investments and returns of its own investors or to investments and returns of investors of any third State.
2. Each Contracting Party shall in its territory accord to investors of the other Contracting Party, as regards management, maintenance, use, enjoyment or disposal of their investments, treatment which is fair and equitable and not less favourable than that which it accords to its own investors or to investors of any third State.
3. The provisions of paragraphs 1 and 2 of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from:
 - (a) Any customs union or free trade area or a monetary union or similar international agreements leading to such unions or institutions, or other forms of regional cooperation 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.
4. The provisions of paragraphs 1 and 2 of this Article shall neither be construed so as to extend to investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from the bilateral agreements providing for concessional financing concluded by the Argentine Republic with Italy on 10th December, 1987 and with the Kingdom of Spain on 3rd June, 1988.

Article 4. Compensation for Losses

1. Investors of either Contracting Party who suffer losses of their investments in the territory of the other Contracting Party owing to war, armed conflict, a state of national emergency, revolt, insurrection or riot or other similar events shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, not less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State.
2. Without prejudice of paragraph 1 of this Article, investors of one Contracting Party who in any of the events referred to in that paragraph suffer losses in the territory of the other Contracting Party resulting from any possible arbitrary action by its authorities shall be also accorded restitution or just and adequate compensation not less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State.

Article 5. Expropriation

1. Investments of investors of either Contracting Party shall not be nationalised, expropriated or subjected to measures having effect equivalent to nationalisation or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for a public purpose. The expropriation shall be carried out under due process of law, on a non-discriminatory basis and shall be accompanied by provisions for the payment of prompt, adequate and effective compensation. Such compensation shall amount to the market value of the expropriated investment immediately before expropriation or before the impending expropriation became public knowledge, shall include interest from the date of expropriation at a normal commercial rate, shall be paid without delay and shall be effectively realisable and freely transferable in a freely convertible currency.
2. The investors affected shall have a right to prompt review by judicial or other independent authority of the Contracting Party making the expropriation, of his or its case and of the valuation of his or its investment in accordance with the principles set out in this Article and under the law of the Contracting Party making the expropriation.

Article 6. Transfers

1. Each Contracting Party shall guarantee to investors of the other Contracting Party the unrestricted transfer of investments and returns and in particular, though not exclusively, of:

(a) Capital and additional sums necessary for the maintenance and development of the investment;

(b) Gains, profits, interests, dividends and other current income;

(c) Funds in repayment of loans as defined in Article 1, paragraph (1), (c); paragraph (1), (c);

(d) Royalties or fees;

(e) The proceeds from a total or partial sale or liquidation of an investment;

(f) Compensations provided for in Articles 4 and 5; Articles 4 and 5;

(g) The earnings of nationals of one Contracting Party who are allowed to work in connection with an investment in the territory of the other.

2. Transfers shall be effected without delay in a freely convertible currency, at the prevailing exchange rate at the date of the transfer.

3. Transfers shall, in any case, be effected within a period not exceeding two months from the date in which the request for the transfer is made.

Article 7. Subrogation

If a Contracting Party or its designated agency makes payments to any of its investors under a guarantee it has accorded in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognise the assignment to the former Contracting Party or its designated agency by law or pursuant to a legal transaction of all rights and claims of the investor and that the former Contracting Party or its designated agency is entitled to exercise such rights and enforce such claims by virtue of subrogation, to the same extent as the investor would have been entitled to exercise.

Article 8. Settlement of Disputes between a Contracting Party and an Investor of the other Contracting Party

1. Any dispute which arises 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 be subject to negotiations between the parties to the dispute.

2. If the dispute cannot thus be settled within six months following the date on which the dispute has been raised in writing by either party to the dispute, it may be submitted, upon request of the investor, either to:

- The competent court of the Contracting Party, which is a party to the dispute, or

- To the international arbitration according to the provisions of paragraph (3).

Article 9. Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should, if possible, be settled through the diplomatic channels.

2. If a dispute between the Contracting Parties cannot thus be settled within six months from the beginning of the negotiations, it shall upon the request of either Contracting Party be submitted to an arbitral tribunal in accordance with the provisions of this Article.

3. Such an arbitral tribunal shall be constituted for each individual case in the following way. Within two months of 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 of the two Contracting Parties shall be appointed Chairman of the Tribunal. The Chairman shall be appointed within three 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 appointments. If the President is a national of either Contracting Party or if he is otherwise prevented from discharging the said function, the vice-president shall be invited to make the 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 appointments. 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 appointments. If the President is a national of either Contracting Party or if he is otherwise prevented from discharging the said function, the vice-president shall be invited to make the 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 appointments.

5. The arbitral tribunal shall reach its decisions by a majority of votes. Such decision shall be binding on both Contracting Parties. 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. The arbitral tribunal shall determine its own procedure.

Article 10. Application of other Rules and Special Commitments

1. Where a matter is governed simultaneously both by this Agreement and by another international agreement to which both Contracting Parties are parties, nothing in this Agreement shall prevent either Contracting Party or any of its investors who own investments in the territory of the other Contracting Party from taking advantage of whichever rules are more favourable to his case.

2. If the treatment to be accorded by one Contracting Party to investors of the other Contracting Party in accordance with its laws and regulations or other specific provisions of contracts is more favourable than that accorded by this Agreement, the more favourable shall be accorded.

Article 11. Applicability of this Agreement

1. The provisions of this Agreement shall apply to future investments made by investors of one Contracting Party in the territory of the other Contracting Party, and also to the investments existing in accordance with the laws of the Contracting Parties on the date of this Agreement coming into force, but the provisions of this Agreement shall not apply to any dispute, claim or difference which arose before its entry into force.

2. The provisions of this Agreement shall not apply to the investments made by natural persons who are nationals of one Contracting Party in the territory of the other Contracting Party if such persons have, at the time of the investment, been domiciled in the latter Contracting Party for more than two years, unless it is proved that the investment was admitted into its territory from abroad.

Article 12. Entry Into Force, Duration and Termination

1. Each Contracting Party shall notify the other of the completion of the procedures required by its laws for the entry into force of this Agreement. This Agreement shall enter into force on the date of the later of the two notifications.

2. This Agreement shall remain in force for a period of ten years. Thereafter, it shall remain in force until the expiration of twelve months from the date either Contracting Party notifies the other in writing of its intention to terminate the Agreement.

3. In respect of investments made prior to the date when the notice of termination of this Agreement becomes effective, the provisions of Articles 1 to 11 shall remain in force for a further period of ten years from that date.

DONE at Buenos Aires on September 21, 1996, in two originals, in the Spanish, Czech and English languages, the three texts being equally authentic. In case of divergence in the interpretation of the provisions, however, the English text shall prevail.

FOR THE ARGENTINE REPUBLIC

FOR THE CZECH REPUBLIC