

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

The Government of the French Republic and the Government of the Hungarian People's Republic, hereinafter referred to as "the Contracting Parties",

Desiring to strengthen their economic cooperation by creating favorable conditions for French investments in Hungary and Hungarian investments in France,

Convinced that the encouragement and protection of such investments are likely to stimulate the transfer of capital and technology between the two countries in the interest of their economic development,

have agreed on the following provisions:

Article 1.

For the purposes of this Agreement:

1. The term: "investment" means assets such as property, rights and interests of every kind, connected with an economic activity in any sector, constituted after December 31, 1972, in accordance with the legislation of the Contracting Party in whose territory or maritime zones the investment has been made, and, more particularly, but not exclusively:

(a) movable and immovable property and any other real rights (such as mortgages, liens, usufructs, bonds and similar rights) ;

b) Shares and other forms of participation, even if minority or indirect, in companies incorporated in the territory of one of the Parties;

c) Bonds, debts and rights to all services of economic value;

d) Copyrights, industrial property rights (such as patents, licenses, trademarks, industrial designs), technical processes, registered names and goodwill;

(e) concessions granted by law or under contract, including concessions for the exploration, cultivation, extraction or exploitation of natural resources, including those located in the maritime zones of the Contracting Parties.

Any change in the form of investment of the assets shall not affect their qualification as investment provided that such change is not contrary to the legislation of the Contracting Party in whose territory or maritime zones the investment is made.

2. The term "investor" means:

(a) Any natural person possessing the nationality of one of the Contracting Parties ;

(b) Any legal entity incorporated in the territory of one of the Contracting Parties in accordance with the laws of that Party and having its registered office therein, or controlled directly or indirectly by nationals of one of the Contracting Parties, or by legal entities having their registered office in the territory of one of the Contracting Parties and incorporated in accordance with the laws of that Party.

The nationality of a company controlled directly or indirectly by nationals of one of the Contracting Parties, or by legal persons having their registered office in the territory of one of the Contracting Parties and constituted in accordance with the legislation of the latter, shall be recognized by the Contracting Party in whose territory or maritime zones the investment is made, prior to its realization. In the event of disagreement as to the nationality of the company concerned, consultations

shall be held between the two Contracting Parties in order to reach a mutually satisfactory agreement.

3. The term "income" means all sums produced by an investment, such as profits, royalties or interest, during a given period. The income from the investment and, in the case of reinvestment, the income from its reinvestment shall enjoy the same protection as the investment.

4. The term "maritime areas" means the marine and submarine areas over which the Contracting Parties exercise, in accordance with International Law, sovereignty, sovereign rights or jurisdiction.

Article 2.

Each Contracting Party shall, within the framework of its legislation and the provisions of this Agreement, admit and encourage investments made by investors of the other Party in its territory and in its maritime zones.

Article 3.

Each Contracting Party undertakes to ensure, in its territory and in its maritime zones, fair and equitable treatment of investments made by investors of the other Contracting Party, excluding any unjustified or discriminatory measure which might impede their management, maintenance, use, enjoyment or disposal.

Article 4.

1. Each Contracting Party shall apply in its territory and maritime zones to investors of the other Party, with respect to their investments and activities related to such investments, the treatment accorded to its own investors or the treatment accorded to investors of the most favored Nation, whichever is more advantageous.

2. Investors authorized to work in the territory and maritime areas of one of the Contracting Parties shall be afforded appropriate facilities for the conduct of their business activities. The Contracting Parties shall give sympathetic consideration, within the framework of their domestic legislation, to applications for entry and authorization to reside, work and travel submitted by nationals of a Contracting Party in connection with an investment in the territory or maritime areas of the other Contracting Party.

3. This treatment shall not, however, extend to privileges which a Contracting Party grants to investors of a third State by virtue of its participation in or association with a free trade area, a customs union, a common market or any other form of regional economic organization.

4. This Agreement shall not extend to any privileges granted by either Contracting Party to any third State under a convention for the avoidance of double taxation or any other convention relating to taxes.

Article 5.

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

2. The Contracting Parties shall not take export or nationalization measures or any other measures the effect of which is to dispossess, directly or indirectly, the investors of the other Party of investments belonging to them in its territory and maritime zones, except in the public interest and provided that such measures are not discriminatory or contrary to any particular undertaking.

Any measures of dispossession that may be taken shall give rise to the payment of prompt and adequate compensation, the amount of which shall correspond to the real value of the investments concerned on the eve of the day on which the measures are taken or become known to the public.

This compensation will be paid to the investors in convertible currency, and will be freely transferable. It shall be paid without delay from the date of dispossession, failing which it shall accrue interest until the date of payment at the appropriate market rate.

3. The investors of one of the contracting parties whose investments have suffered losses due to war or any other armed conflict, state of national emergency or revolt, occurring in the territory or maritime zones of the other contracting party, shall receive from the latter treatment no less favourable than that accorded to its own investors or to those of the most favoured nation. In any event, they shall receive adequate compensation.

Article 6.

Each Contracting Party, in whose territory or maritime zones investments have been made by investors of the other Contracting Party, shall grant to such investors the free transfer of:

- (a) Interest, dividends, profits and other current income ;
- (b) royalties from intangible rights designated in paragraph 1(d) and (e) of Article 1;
- (c) payments made for the repayment of loans regularly contracted;
- (d) Proceeds from the total or partial sale or liquidation of the investment, including capital gains on the investment
- (e) The compensation for loss or dispossession provided for in Article 5, paragraphs 2 and 3 above.

The nationals of each of the Contracting Parties who have been authorized to work in the territory or maritime zones of the other Contracting Party in connection with an approved investment shall also be authorized to transfer to their country of origin an appropriate portion of their remuneration, determined in accordance with the legislation of the latter Party.

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

Article 7.

Where the regulations of one of the Contracting Parties provide for a guarantee for investments made abroad, such guarantee may be granted, on a case-by-case basis, to investments made by investors of that Party in the territory or maritime zones of the other Party.

Article 8.

If one of the Contracting Parties, by virtue of a guarantee given for an investment made in the territory or maritime zones of the other Party, makes payments to one of its investors, it is thereby subrogated to the rights and actions of that investor.

Such payments shall not affect the rights of the beneficiary of the guarantee to have recourse to the relevant proceedings or arbitration or to pursue actions brought before them until the proceedings have been completed.

Article 9.

1. Any investment dispute between one of the Contracting Parties and an investor of the other Contracting Party shall be settled as amicably as possible between the two parties concerned or, failing that, through domestic channels.
2. However, disputes relating to the dispossession measures referred to in Article 5(2), and in particular those relating to the existence of compensation, the amount thereof, the conditions for its payment and the interest to be paid in the event of delay in its payment, shall be settled under the following conditions:

If such a dispute has not been settled amicably within six months from the time it was raised by one of the parties to the dispute, it shall be submitted to arbitration at the request of either party. It shall be finally settled in accordance with the arbitration rules of the United Nations Commission on International Trade Law, as adopted by the General Assembly of the United Nations in its resolution 31-98 of December 15, 1976.

Once each of the Contracting Parties has become a party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, concluded at Washington on March 18, 1965, such a dispute, if not amicably settled within six months from the time it was raised by one of the parties to the dispute, shall be submitted to the International Centre for Settlement of Investment Disputes for settlement by arbitration.

3. The arbitral tribunal shall decide the dispute in accordance with the provisions of this Agreement and the rules and principles of international law.

Article 10.

Investments which have been the subject of a special undertaking by one contracting party to investors of the other contracting party shall, without prejudice to the provisions of this Agreement, be governed by the terms of that undertaking

to the extent that it contains provisions more favorable than those contained in this Agreement.

Article 11.

1. Disputes concerning the interpretation or application of this Agreement shall be settled, if possible, through diplomatic channels.

2. If the dispute is not settled within six months of its being raised by either Contracting Party, it shall, at the request of either Contracting Party, be submitted to an arbitration tribunal.

3. The said Tribunal shall be constituted for each particular case in the following manner:

Each Contracting Party shall appoint one member, and the two members shall appoint, by mutual agreement, a national of a third State who shall be appointed as Chairman by both Contracting Parties. The members of the Tribunal shall be appointed within two months and the Chairman within four months from the date on which one of the Contracting Parties has notified the other Contracting Party of its intention to submit the dispute to arbitration.

4. If the time limits laid down in paragraph 3 have not been observed, either Contracting Party shall, in the absence of any applicable 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 is otherwise prevented from exercising this function, the Deputy Secretary General, who is the most senior, and who is not a national of one of the Contracting Parties, shall make the necessary appointments.

5. The Arbitration Tribunal shall rule in accordance with the provisions of this Agreement and the rules and principles of international law.

6. The Arbitration Tribunal shall take its decisions by majority vote. Such decisions shall be final and binding on the Contracting Parties.

The Tribunal shall establish its own rules. It shall interpret the award at the request of either Contracting Party. Unless the Tribunal decides otherwise, taking into account the particular circumstances, the costs of the proceedings, including the fees of the arbitrators, shall be shared equally by the two Governments.

Article 12.

1. This Agreement shall enter into force one month from the date on which the contracting parties have notified each other that the constitutional procedures required in their respective countries have been completed. It shall remain in force for a period of ten years and shall continue in force for successive periods of ten years, unless either of the Contracting Parties denounces it through diplomatic channels, by means of a notification submitted at least one year before the expiration of the current period of validity.

2. Investments made prior to the expiration of this Agreement shall remain subject to it for a period of twenty years from the date of such expiration.

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

Done at Paris, this 6th day of November 1986, in two originals in the French and Hungarian languages, both texts being equally authentic.

For the Government of the French Republic: Alain Juppé

For the Government of the Hungarian People's Republic: Peter Medgyessy