AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF FINLAND AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE PROTECTION OF INVESTMENTS

The Government of the People's Republic of China and the Government of the Republic of Finland (each hereinafter referred to as a "Contracting Party"),

Recognizing the need to create favourable conditions for and to protect investments by investors of one Contracting Party in the territory of the other Contracting Party based on equality and mutual benefit and for the purpose of the development of economic co-operation between both States,

Have agreed as follows:

Article 1. Definitions

For the purpose of this Agreement:

(1) The term "investment" shall comprise every kind of asset invested by investors of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the other Contracting Party, and particularly, though not exclusively:

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

(b) Shares, stocks and debentures of companies or interests in the property of such companies;

(c) Title or claim to money or right to any performance having an economic value;

(d) Copyrights, industrial property rights (such as patents for inventions, trade marks, industrial designs), technical processes, know-how and business names;

(e) Concessions, including concessions to search for, extract or exploit natural resources.

(2) The term "investors" means:

In respect of the People's Republic of China:

(a) Physical persons who have nationality of the People's Republic of China:

(b) Economic entities established in accordance with the laws of the People's Republic of China and domiciled in the territory of the People's Republic of China;

(c) Entities in which Chinese physical persons or economic entities have an important interest;

In respect of the Republic of Finland:

(d) Physical persons who are citizens of Finland according to Finnish law;

(e) Legal persons established in accordance with Finnish law and with their seat in Finland and legal persons in which there is an important Finnish interest.

(3) The term "returns" means the amounts yielded by an investment, such as profit, capital gains, dividends, royalties or fees.

Article 2. Applicability of this Agreement

(1) This Agreement shall only apply to investments made in accordance with the laws, regulations and procedures of the Contracting Party receiving the investments.

(2) Subject to the provisions of paragraph (1) of this Article, this Agreement shall apply to all investments made in the territory of a Contracting Party by investors of the other Contracting Party after 1 July, 1979.paragraph (1) of this Article, this Agreement shall apply to all investments made in the territory of a Contracting Party by investors of the other Contracting Party after 1 July, 1979.

Article 3. Protection of Investment

Each Contracting Party shall, subject to its laws and regulations, at all times ensure equitable treatment to the investments of investors of the other Contracting Party.

Article 4. Most-favoured-nation Provisions

(1) Neither Contracting Party shall in its territory subject investments admitted in accordance with the provisions of this Agreement or returns of investors of the other Contracting Party to treatment less favourable than that which it accords, in like situations, to investments or returns of investors of any third States.

(2) The treatment mentioned in paragraph (1) of this Article shall not include treatment accorded by either Contracting Party to investments or returns of investors of a third state based on agreements relating to customs unions, free trade areas or other forms of regional co-operation, economic unions, avoidance of double taxation and frontier trade.paragraph (1) of this Article shall not include treatment accorded by either Contracting Party to investments or returns of investors of a third state based on agreements relating to customs unions, free trade areas or other forms of regional co-operation, economic unions, avoidance of double taxation and frontier trade.

Article 5. Expropriation

(1) If one Contracting Party expropriates, nationalizes or takes other similar measures (all such measure hereinafter referred to as "expropriation") against an investment made by an investor of the other Contracting Party in the territory of the former one, the following conditions shall be followed:

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

(b) Shall not be discriminatory;

(c) Shall be against compensation.

(2) The amount of compensation shall be paid without undue delay and shall be in convertible currency and freely transferable. Such compensation shall amount to the value of the investment immediately before the expropriation and shall include interest until the date of payment.

Article 6. Repatriation of Investment

(1) Each Contracting Party shall, subject to its laws and regulations, allow without undue delay the investors of the other Contracting Party to transfer freely in a convertible currency:

(a) The profit, capital gains, dividends, interest, royalties, fees and other returns accruing from an investment;

(b) The proceeds from the total or partial liquidation of an investment;

(c) Payments made pursuant to a loan agreement in connection with an investment;

(d) Earnings of a national of the other Contracting Party employed in connection with an investment.

(2) Each Contracting Party shall allow, in accordance with the approved contract, free transfer from its territory of movable property constituting part of an investment by an investor of the other Contracting Party.

Article 7. Exchange Rate

The transfers mentioned in Article 5 and paragraph (1) of Article 6 of this Agreement shall be effected at the official exchange rate of the Contracting Party receiving the investment on the date of transfer.

Article 8. Subrogation

If a Contracting Party makes a payment to an investor under a guarantee it has granted in respect of an investment, the other Contracting Party shall, without prejudice to the rights of the former Contracting Party under Article 9, recognized the transfer of any right or title of the investor to that Contracting Party and the subrogation of that Contracting Party to any right or title. The right or title subrogated shall not exceed the right or title of the investor.

Article 9. 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 diplomatic channels.

(2) If a disputes between the Contracting Parties cannot thus be settled within six months, 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 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, which diplomatic relations with both Contracting Parties, 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 any necessary 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 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 and who is not otherwise prevented from discharging the said function shall be invited to make the necessary appointments.

(5) The arbitral tribunal shall determine its own procedure. The tribunal shall reach its decision by a majority of votes. The decision shall be final and binding on both Contracting Parties. The tribunal shall, upon the request of either Contracting Party, state the reasons upon which the award is based.

(6) Each Contracting Party shall bear the cost of the arbitrator it has appointed. The cost of the chairman and the relevant costs of the tribunal shall be borne in equal parts by the Contracting Parties.

Article 10. Review of Implementation

The representatives of the Contracting Parties shall, whenever needed, hold meetings in order to review the implementation of this Agreement. These meetings shall be held on the proposal of one of the Contracting Parties at a place and at a time agreed upon through diplomatic channels.

Article 11. Entry Into Force, Duration and Termination

(1) This Agreement shall enter into force thirty days after the date on which both Contracting Parties have notified each other that they have fulfilled their respective legal procedures for its entry into force.

(2) This Agreement shall remain in force for a period of fifteen years. Thereafter it shall remain in force until the expiration of twelve months from the date on which either Contracting Party shall have given written notice of termination to the other.

(3) In respect of investments made prior to the date when the termination of this Agreement becomes effective, the provisions of Article 1-10 shall continue in effect for a further period of ten years after the date of termination.

Done in duplicate at Beijing this 4th day of September, 1984, in the Chinese, Finnish and English language, all texts being equally authoritative. In the case of divergence of interpretation the English text shall prevail.

For the Government of the People's Republic of China (Chen Muhua)

For the Government of the Republic of Finland: JERMU LAINE

On signing the Agreement between the Government of the Republic of Fin land and the Government of the People's Republic of China for the protection of investments, the duly authorized representatives of both Parties have agreed upon the following provisions which constitute an integral part of this Agreement: Article 1 Either Contracting Party shall, within the scope defined by its laws and reg ulations, give well-meaning consideration to entry and residence applications of the employees of investors of the other Contracting Party who wish to enter its territory in connection with the investment. Article 2 (1) If an investor considers the measure of expropriation in Article 5 incompatible with the laws of the Contracting Party taking the measure, the competent court of that Party shall, upon request of the investor, review the said measure. (2) If an investor whose investment has been expropriated challenges the amount of compensation for his assets, the investor and the Contracting Party which adopted the measure of expropriation shall consult with a view to reaching agreement on the amount of compensation within six months. (3) If the parties to the consultations do not reach agreement within the period set out in subparagraph (2) the competent court of the Contracting Party adopting the measure of expropriation or an international arbitral tribunal shall, upon the request of the investor, review the amount of the compensation. (4) The international arbitral tribunal referred to above shall be constituted for each case separately. Each party to the dispute shall appoint one member of the tribunal. These two members shall appoint a third person as chairman of the tribunal. The members shall be appointed within two months and the chairman within four months of the date on which either party receives from the other party to the dispute a request for arbitration. Should the appointments of members or chairman not take place within the time periods specified above, either party may, in case no other agreement has been made, refer the appointment to the Arbitration Institute of the Stockholm Chamber of Commerce. The arbitral tribunal shall determine its own procedures with reference to the Convention on the Settlement of Investment Disputes between States and Na tionals of Other States, done in Washington on 18 March, 1965.' The tribunal shall decide by majority vote and its decision shall be final and binding and can be enforced in accordance with domestic law. The tribunal shall, upon the request of either party to the dispute, state the reasons upon which the award is based. Each party to the dispute shall bear the cost of the arbitrator it has appointed. The cost of the chairman and other relevant costs of the tribunal shall be borne in equal parts by the parties to the dispute. Article 3 Unless otherwise agreed all other disputes over an investment between an investor and the Contracting Party receiving the investment shall be settled through local remedies of the Contracting Party in question and in accordance with its laws and regulations. Article 4 If an investor of one Contracting Party has an important interest in a company having its seat in a third State and having an important interest in a company of the other Contracting Party, the provisions of Article 5 of this Agreement shall apply to the investor in case the other Contracting Party takes measures of expropria tion against the investment assets of the company having its seat in the third State. However, the provisions relating to compensation for expropriation shall apply only when that company or the third State does not qualify for compensation or the said State abandons the right to request compensation. Article 5 If the treatment to be accorded by one Contracting Party under its laws and regulations to the investment of investors of the other Contracting Party is more favourable than the treatment provided by this Agreement, the more favourable treatment shall be applied. DONE in duplicate at Beijing this 4th day of September 1984 in the Finnish, Chinese and English languages, all texts being equally authoritative. In the case of divergence of interpretation the English text shall prevail. For the Government of the Republic of Finland: JERMU LAINE For the Government of the People's Republic of China: CHEN MUHU