

# Agreement on the Mutual Protection of Investments between

The Government of Sweden and the Government of the Islamic Republic of Pakistan, desiring to maintain fair and equitable treatment of investments of nationals and companies of one Contracting State in the territory of the other Contracting State, have agreed as follows: -

## Article 1.

For the purposes of this Agreement:

(1) The term "investment" shall comprise the funds invested by nationals or companies of one Contracting State in the territory of the other Contracting State with the approval and in accordance with the laws of that State. It shall include every kind of asset connected with the investment, and more particularly, though not exclusively,

(a) Invested property, whether movable or immovable, and any right, title or interest in such property;

(b) Shares or other kinds of interest in companies;

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

(d) Copyrights, industrial property rights, technical processes, trade-names and other values acquired as part of the investment;

(e) Such business-concessions under public law or under contract, including concessions regarding the prospecting for, or the extraction or exploitation of natural resources, as give to their holder a legal position of some duration.

(2) The term "national" means any natural person possessing the nationality of one Contracting State.

(3) The term "company" means any legal person incorporated or constituted in accordance with the legislation of one Contracting State and having its head office in the territory of that State.

## Article 2.

If a Contracting State, in the exercise of its full discretion, has given its approval to an investment in its territory by a company, in which the majority of shares are owned by nationals or companies of the other Contracting State, the provisions of this Agreement shall apply to that investment, whether or not the company falls within the categories defined in paragraph (3) of Article 1.

## Article 3.

(1) Each Contracting State shall at all times ensure fair and equitable treatment to the investments of nationals and companies of the other Contracting State.

(2) Investments by nationals or companies of one Contracting State in the territory of the other Contracting State shall not be subjected to a treatment less favourable than that accorded to investments by nationals or companies of third States.

(3) Notwithstanding the provisions of paragraph (2) of this Article, a Contracting State, which has concluded with one or more other States an agreement regarding the formation of a customs union or a free-trade area, or any other comprehensive agreement on economic cooperation, shall be free to grant a more favourable treatment to investments by nationals and companies of the State or States, which are also parties to the said agreement, or by nationals and companies of some of these States. A Contracting State shall also be free to grant a more favourable treatment to investments by nationals and companies of other States, if this is stipulated under bilateral agreements concluded with such States before the date of the signature of this Agreement.

## **Article 4.**

(1) Neither Contracting State shall take any measures depriving, directly or indirectly, nationals or companies of the other Contracting States of an investment unless the following conditions are complied with:-

- (a) The measures are taken in the public interest and under due process of law;
  - (b) The measures are not discriminatory; and
  - (c) The measures are accompanied by provisions for the payment of prompt, adequate and effective compensation, which shall be freely transferable between the territories of the Contracting States.
- (2) The provisions of paragraph (1) of this Article shall also apply to the current income from an investment as well as, in the event of liquidation, to the proceeds from the liquidation.

## **Article 5.**

(1) Each Contracting State shall, subject to its laws and regulations, allow without undue delay the transfer in any convertible currency of:-

- (a) The net profits, dividends, royalties, technical assistance and technical service fees, interest and other current income, accruing from any investment of the nationals or companies of the other Contracting State;
  - (b) The proceeds of the total or partial liquidation of any investment made by nationals or companies of the other Contracting State;
  - (c) Funds in repayment of borrowings by nationals or companies of one Contracting State from nationals or companies of the other Contracting State which the Contracting States have recognised as investment; and
  - (d) The earnings of nationals of the other Contracting State who are allowed to work in connection with an investment in its territory.
- (2) The Contracting States undertake to accord to transfers referred to in paragraph (1) of this Article a treatment as favourable as that accorded to transfers originating from investments made by nationals or companies of any third State.

## **Article 6.**

If a Contracting State makes a payment to any of its nationals or companies under a guarantee it has granted in respect to an investment, the other Contracting State shall, without prejudice to the rights of the former Contracting State under Article 8, recognise the transfer of any right or title of such national or company to the former Contracting State and the subrogation of the former Contracting State to any such right or title.

## **Article 7.**

(1) Each Contracting State consents to submit to the International Centre for the Settlement of Investment Disputes (hereinafter referred to as "the Centre") for settlement by conciliation or arbitration under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States opened for signature at Washington on March 18, 1965 any legal dispute arising between that Contracting State and a national or company of the other Contracting State concerning an investment of the latter in the territory of the former. A company which is incorporated or constituted under the law in force in the territory of one Contracting State and in which before such a dispute arises the majority of shares are owned by nationals or companies of the other Contracting State shall in accordance with Article 25 (2) (b) of the Convention be treated for the purposes of the Convention as a company of the other Contracting State. If any such dispute should arise and agreement cannot be reached within three months between the parties to this dispute through pursuit of local remedies or otherwise, then, if the national or company affected also consents in writing to submit the dispute to the Centre for settlement by conciliation or arbitration under the Convention, either party may institute proceedings by addressing a request to that effect to the Secretary-General of the Centre as provided in Articles 28 and 36 of the Convention. In the event of disagreement as to whether conciliation or arbitration is the more appropriate procedure the national or company affected shall have the right to choose. The Contracting State which is a party to the dispute shall not raise as an objection at any stage of the proceedings or enforcement of an award the fact that the national or company which is the other party to the dispute has received in pursuance of an insurance contract an indemnity in respect of some or all of his or its losses.

(2) Neither Contracting State shall pursue through diplomatic channels any dispute referred to the Centre unless

(a) The Secretary-General of the Centre, or a conciliation commission or an arbitral tribunal constituted by it, decides that the dispute is not within the jurisdiction of the Centre, or

(b) The other Contracting State should fail to abide by or to comply with any award rendered by an arbitral tribunal.

## **Article 8.**

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

(2) If a dispute between the Contracting States cannot thus be settled, it shall upon the request of either Contracting State 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 State shall appoint one member of the tribunal. Those two members shall then select a national of a third State who on approval by the two Contracting States 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 period specified in paragraph (3) of this Article the necessary appointments have not been made, either Contracting State 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 State 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 State 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 State and who is not prevented from discharging the said function shall be invited to make the necessary appointments.

(5) The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be binding on both Contracting States. Each Contracting State 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 States. The tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two Contracting States, and this award shall be binding on both Contracting States. The tribunal shall determine its own procedure.

## **Article 9.**

Nothing in this Agreement shall prejudice any rights or benefits accruing under national or international law to interests of a national or a company of one Contracting State in the territory of the other Contracting State.

## **Article 10.**

This Agreement shall only apply to investments made after September 1, 1954 and shall in no way affect the rights and obligations of Contracting States with respect to investments made before that date.

## **Article 11.**

(1) This Agreement shall enter into force on the day the Governments of the two Contracting States notify each other that their constitutional requirements for the entry into force of this Agreement have been fulfilled.

(2) This Agreement shall remain in force for a period of twenty years and shall continue in force thereafter unless, after the expiry of the initial period of nineteen years, either Contracting State notifies in writing the other Contracting State of its intention to terminate this Agreement. The notice of termination shall become effective one year after it has been received by the other Contracting State.

(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 10 shall remain in force for a further period of twenty years from that date.

Done in Stockholm on March 12, 1981 in two originals in the English language.