

Treaty between the Federal Republic of Germany and the Hungarian People's Republic on the Promotion and Reciprocal Protection of Capital Investments

The Federal Republic of Germany and the Hungarian People's Republic -

In the desire to deepen economic cooperation between the two countries,

In the endeavor to create favorable conditions for the investments of investors of one State in the territory of the other State; and

Recognizing that promotion and contractual protection of investments stimulate the initiative in this area,

Have agreed as follows:

Article 1.

For the purposes of this Treaty

1. the term "investments" means assets of any kind, in particular

- a) Ownership of movable and immovable property as well as other rights in rem and securities such as mortgages and liens;
- b) Shareholdings in companies and other types of participations in companies;
- c) Claims on money used to create an economic value or claims on an economic value;
- d) Copyright, industrial property rights, technical procedures, trademarks, trade names, know-how and goodwill;
- e) Public-law concessions, including concession and concession concessions;

A change in the form in which assets are invested does not affect their property as an investment;

2. The term "income" means those amounts which are in the form of profit shares, dividends, royalties, interest and other current income on an investment for a certain period;

3. The term "investors"

a) With regard to the Federal Republic of Germany:

German domicile within the scope of this Treaty;

b) With regard to the Hungarian People's Republic:

Hungary is domiciled within the scope of this Treaty;

c) Any legal person, any trading company or other company or association with or without legal personality having its registered office within the scope of this contract and which is lawful according to the law whether or not the liability of its shareholders, members or members is unlimited or unlimited Activity is aimed at profit or not.

Article 2.

Each Contracting Party shall, as far as possible, promote investments in its territory by investors from the other Contracting Parties and allow such investments in accordance with its laws. In any case, it will treat capital investments fairly and cheaply.

Article 3.

(1) Each Contracting Party treats investments of investors of the other Contracting Parties or investments in which investors of the other Contracting Parties are involved in their territory no less favorable than the investments of their own investors or investments by investors of third States.

(2) Each Contracting Party treats investors of the other Contracting Parties with regard to their activities in connection with investments in their territory no less favorably than their own investors or investors of third States.

(3) This treatment does not relate to the privileges granted by a Contracting Party to investors of third countries because of their membership in a customs or economic union, a common market or a free trade zone or because of their association with it.

(4) The treatment provided for in this article does not apply to any benefits granted by a Contracting Party to investors of third countries under a double taxation agreement or other agreements on tax questions.

Article 4.

(1) Investments made by investors of a contracting party shall enjoy full protection and security in the territory of the other Contracting Parties.

(2) Investments by investors of a Contracting Party may be expropriated, nationalized or subject to other measures which are equivalent to expropriation or nationalization in the territory of the other Contracting Parties only for the general good and for compensation. The compensation must correspond to the value of the expropriated investment immediately before the date on which the expropriation or nationalization became public. The compensation must be paid without delay and is payable at the usual bank rate until the time of payment; it must in fact be usable and freely transferable. At the latest, at the time of expropriation, nationalization or comparable measures, appropriate provision must be made for the setting and performance of the compensation provision. The legality of the expropriation, nationalization or comparable measures and the amount of the compensation must be able to be verified by ordinary proceedings.

(3) Investors in a Contracting Party who suffer losses in investments as a result of war or other armed conflicts, revolution, national emergency or turmoil in the territory of the other Contracting Party shall be treated no less favorably by the Contracting Party in respect of repayments, settlements, compensation or other consideration than their own investors. Such payments are freely transferable.

(4) In respect of the matters governed by this Article, the investors of a Contracting Party in the territory of the other Contracting Parties shall enjoy most-favored-nation treatment.

Article 5.

Each Contracting Party guarantees to the investors of the other Contracting Parties the free transfer of payments in connection with an investment, in particular

- a) Of the capital and additional amounts for the maintenance or expansion of the investment;
- b) Of income;
- c) To repay loans;
- d) Of license and other fees for the rights defined in Article 1 (1) (d);
- e) Of the liquidation proceeds in the event of the complete or partial sale of the investment.

Article 6.

If a Contracting Party makes payments to its investors on the basis of a guarantee for an investment in the territory of the other Contracting Party, this other Contracting Party shall recognize the transfer of all rights or claims of such investors by law or by virtue of legal transactions to the former Contracting Party. Furthermore, the other Contracting Party shall recognize the entry of the former Contracting Party into all such rights or claims (transferred claims) which the former Contracting Party is entitled to exercise to the same extent as its predecessor. Article 4 (2) and (3) and Article 5 shall apply mutatis mutandis to the transfer of payments to the Contracting Party concerned on the basis of the transferred claims.

Article 7.

Transfers pursuant to Article 4 (2) or (3), Article 5 or 6 shall be effected without undue delay at the applicable rate.

Article 8.

(1) If the legislation of a Contracting Party or obligations under international law which exist between the Contracting Parties or which are established in the future are governed by a general or special regulation which grants the investors of the other Contracting Parties more favorable treatment than under this Treaty, This provision shall be governed by this Treaty in so far as it is more favorable.

(2) Each Contracting Party shall comply with any other obligation which it has assumed in respect of investments through its agreement with investors of the other Contracting Parties in its territory.

Article 9.

This Agreement shall apply to investments made by investors of one Contracting Party from 1 January 1973 in accordance with the laws of the other Contracting Parties in their territory.

Article 10.

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Treaty shall, as far as possible, be settled by the Governments of the two Contracting Parties.

(2) If a disagreement can not be settled in this way within six months after the initiation of the negotiations, it shall be submitted to an arbitration board at the request of one of the two contracting parties.

(3) The arbitral tribunal shall be constituted on a case-by-case basis by appointing a member to each of the Contracting Parties, and both members as members of a third State as chairman to be appointed by the Governments of the two Contracting Parties. The members shall be appointed within two months to appoint the chairman within three months after the one party to the agreement has notified the other that it wishes to submit the dispute to an arbitration tribunal.

(4) If the deadlines set out in paragraph (3) are not met, in the absence of any other agreement any Contracting Party may ask the Secretary-General of the United Nations to make the necessary appointments.

(5) The arbitral tribunal shall make its decisions on the basis of this Treaty and other relevant treaties between the two Contracting Parties, as well as on general international law. The arbitral tribunal shall decide by a majority of votes; The decision is final and binding.

(6) Each Contracting Party shall bear the costs of its arbitrator and its representation in the arbitration proceedings. The costs of the chairman and other costs are borne equally by the two contracting parties.

(7) Moreover, the arbitral tribunal shall regulate its own procedures.

(8) If both Contracting Parties are members of the Convention of 18 March 1965 on the resolution of disputes between States and nationals of other States, the above-mentioned arbitration can not be invoked with regard to the provisions of Article 27 (1) of this Convention Investor of a Contracting Party and the other Contracting Party has concluded an agreement in accordance with Article 25 of the Convention. The possibility of calling the arbitral tribunal provided for in the event of failure to comply with a judicial decision of the arbitral tribunal of the said Convention (Article 27) or in the case of a transfer by law or by virtue of a legal transaction pursuant to Article 6 of this Treaty shall remain unaffected.

Article 11.

(1) Disputes arising from Article 4 (2) between a Contracting Party and an investor of the other Contracting Parties shall, as far as possible, be settled amicably between the parties concerned.

(2) If the disagreement can not be settled within six months from the date of their assertion by one of the two parties, it shall be submitted to an arbitral tribunal at the request of one of the two parties. In this case, the provisions of paragraphs (3) to (7) of Article 10 shall be applied mutatis mutandis with the proviso that the appointment of the members of the arbitral tribunal pursuant to Article 10 (3), sentence I, by the parties to the dispute, and in the case of Article 10 paragraph (4) the chairman of the international arbitration at the Chamber of Commerce in Stockholm.

(3) In the event that both Contracting Parties have become members of the Convention of 18 March 1965 on the settlement of disputes between states and nationals of other States, differences of opinion under Article 11 (1) between a Contracting Party and an investor shall be mediated in accordance with the provisions of this Agreement And arbitration are submitted to the International Center for the Settlement of Investment Disputes.

Article 12.

This Agreement shall apply irrespective of whether diplomatic or consular relations exist between the Contracting Parties.

Article 13.

In accordance with the Quadripartite Agreement of 3 September 1971, this Agreement shall be extended to Berlin (West) in accordance with the established procedures.

Article 14.

(1) This Treaty shall be subject to ratification; The instruments of ratification will be exchanged as soon as possible in Bonn.

(2) This Treaty shall enter into force one month after the exchange of the instruments of ratification. It shall remain in force for a period of ten years and shall thereafter be extended by a further ten years, unless one of the two contracting parties terminates the contract in writing with a period of twelve months in writing.

(3) For investments made up to the date of the expiry of this Treaty, Articles 1 to 13 shall continue to apply for a further twenty years from the date of expiry of the Treaty.

Done at Budapest, this 30th day of April 1986, in two originals, each in the German and Hungarian languages, both texts being equally authentic.

For the Federal Republic of Germany.

E.F. Jung

Martin Bangemann

For the Hungarian People's Republic

Hetényi István

Protocol

At the signing of the Treaty on the Promotion and Reciprocal Protection of Capital Investments between the Federal Republic of Germany and the Hungarian People's Republic, the undersigned Plenipotentiaries also concluded the following agreements, which form an integral part of the Treaty.

(1) Ad Article 1

a) The term "capital investments" as defined in Article 1, item 1, shall include those capital investments which are made for business purposes.

b) Income from investments and, in the event of their reinvestment, also their income, shall enjoy the same protection as the capital investment.

(2) Ad Article 2

Investments made in accordance with the laws of one Party within the scope of its jurisdiction by investors of the other Party shall enjoy the protection accorded in the laws of the other Party and the protection provided for in this Treaty.

(3) Ad Article 3

(a) For the purposes of paragraph (2) of Article 3, "treatment" shall mean in particular, but not exclusively, the management, use, enjoyment, and enjoyment of an investment. A "less favorable" treatment within the meaning of Article 3 shall be deemed to include, in particular: the restriction of the purchase of raw materials and supplies, energy and fuels, and means of production and operation of all kinds, the obstruction of the sale of products at home and abroad, and other measures having a similar effect.

Measures to be taken for reasons of public safety and order, public health, or morality shall not be considered as "less favorable" treatment within the meaning of Article 3.

(b) The provisions of Article 3 shall not oblige a Party to extend to individuals and companies resident in the territory of the other Party tax advantages, exemptions, and facilities which, under its tax laws, are available only to individuals and companies resident in that territory.

(c) The Parties shall give favorable consideration, within the framework of their domestic legislation, to applications for entry and residence of persons of one Party who wish to enter the territory of the other Party in connection with the making and carrying out of capital investment; the same shall apply to workers of one Party who wish to enter and reside in the territory of the other Party in connection with a capital investment in order to carry on an activity as a worker. Applications for work permits shall also be favorably considered.

(d) Article 3, paragraph (3), shall also include membership in the Council for Mutual Economic Assistance.

(4) Ad Article 4

(a) "Expropriation" shall mean any deprivation, or restriction equivalent to deprivation, of any property right which, alone or together with other rights, constitutes a capital investment.

b) A claim for compensation shall also exist if the enterprise which is the subject of the capital investment is interfered with by government measures and its economic substance is substantially impaired thereby.

(5) Ad Article 7

For the purposes of Article 7, a transfer shall be deemed to have been effected "without undue delay" if it is effected within a period of time which is normally necessary to comply with the transfer requirements. The period shall commence with the submission of an appropriate application and shall under no circumstances exceed two months.

(6) In the case of transports of goods and persons in connection with the making of capital investments, the Parties will neither eliminate nor hinder the transport companies of the other Party and will, if necessary, grant authorizations for carrying out the transports.

This includes shipments of:

a) goods directly intended for investment within the meaning of this Treaty or acquired in the territory of a Contracting Party or of a third State by or on behalf of an enterprise in which assets within the meaning of this Treaty are invested;

b) persons traveling in connection with the making of investments.

Done at Budapest, this 30th day of April 1986, in two originals, each in the German and Hungarian languages, both texts being equally authentic.

For the Federal Republic of Germany

E. F. Jung

Martin Bangemann

For the Hungarian People's Republic

Hetenyi Istvan