

# Agreement between the Government of the Republic of Lithuania and the Government of the Republic of Slovenia on the Promotion and Protection of Investments

The Government of the Republic of Slovenia and the Government of the Republic of Lithuania, hereinafter referred to as the "Contracting Parties",

Desiring to intensify economic cooperation to the mutual benefit of both countries and to maintain fair and equitable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party,

Recognizing that the promotion and protection of investments on the basis of this Agreement will stimulate business initiatives,

Have agreed as follows:

## Article 1. Definitions

For the purpose of this Agreement:

1 . The term "Investment" shall mean 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 latter including, in particular, though not exclusively:

- a) Movable and immovable property and any property rights such as mortgages, liens and pledges;
- 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;
- d) Intellectual property rights; and
- e) Concessions conferred by law or by administrative act by a competent authority, including concessions to search for, develop, extract or exploit natural resources.

Any alteration of the form in which assets are invested or reinvested shall not affect their character as investments provided that such alteration is in accordance with the laws and regulations of the Contracting Party in whose territory the investment has been made.

2 . The term "Returns" shall mean the amounts yielded by investments and in particular, though not exclusively, shall include profits, dividends, interests, royalties, capital gains or other forms of income related to the investments. Returns from investment and from reinvestment shall enjoy the same treatment as investment.

3 . The term "Investor" shall mean:

- a) In respect of the Republic of Slovenia:
  - i) Natural persons having the nationality of the Republic of Slovenia, in accordance with its laws, and
  - ii) Legal persons constituted under the law of the Republic of Slovenia.
- b) In respect of the Republic of Lithuania:
  - i) Natural persons who are nationals of the Republic of Lithuania according to the laws of the Republic of Lithuania, and
  - ii) Any entity constituted under the laws of the Republic of Lithuania and registered in the territory of the Republic of

Lithuania in conformity with its laws and regulations.

4 . The term "Territory" shall mean

a) In respect of the Republic of Slovenia, the territory under its sovereignty, including air space and maritime areas, over which the Republic of Slovenia exercises its sovereignty or jurisdiction, in accordance with internal and international law.

b) In respect of the Republic of Lithuania the territory of the Republic of Lithuania, including the territorial sea and any maritime or submarine area within which the Republic of Lithuania may exercise, in accordance with international law, rights for the purpose of exploration, exploitation and preservation of the sea-bed, sub-soil and natural resources.

## **Article 2. Promotion and Protection of Investments**

1 . The Contracting Party shall promote within its territory investments made by investors of the other Contracting Party and shall admit such investments into its territory in accordance with its laws and regulations.

2 . The Contracting Party shall accord to investments in its territory of investors of the other Contracting Party fair and equitable treatment and full and constant protection and security.

3 . The Contracting Party shall not impair by unreasonable, arbitrary or discriminatory measures the management, maintenance, use, enjoyment or disposal of investments in its territory of investors of the other Contracting Party.

## **Article 3. Treatment of Investments**

1 . Investments made by investors of one Contracting Party in the territory of the other Contracting Party shall be accorded treatment which is not less favourable than the latter Contracting Party accords to the investments made by its own investors or by investors of any third State, whichever is the more favourable.

2 . Investors of one Contracting Party shall be accorded by the other Contracting Party, as regards the management, maintenance, use, enjoyment or disposal of their investments, treatment which is not less favourable than the latter Contracting Party accords its own investors or to investors of any third State, whichever is the more favourable.

3 . The provisions 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 by virtue of:

a) Any existing or future customs union, common market, free trade area, economic union or other forms of regional economic cooperation, and

b) Any international agreement relating wholly or mainly to taxation.

## **Article 4. Expropriation**

1 . Investments made by investors of a Contracting Party in the territory of the other Contracting Party shall not be expropriated, nationalized or subject to any other measure having effect equivalent to expropriation or nationalization (hereinafter referred to as "expropriation") except for a public interest, on a non-discriminatory basis, under due process of law and against prompt, adequate and effective compensation.

2 . Such compensation shall amount to the market value of the expropriated investment at the time immediately before the expropriation became public knowledge or before the expropriation occurred, whichever is the earlier, and shall include interest calculated on the LIBOR basis from the date of the expropriation to the date of payment. Compensation shall be effectively realizable and freely transferable and shall be paid without undue delay in a freely convertible currency.

3 . The investor whose investments are expropriated, shall have the right to the prompt review by a judicial or other competent authority of that Contracting Party of its case and of valuation of its investments in accordance with the principles set out in this article.

## **Article 5. Compensation for Losses**

Investors of one Contracting Party whose investments have suffered losses owing to war or other armed conflict, revolution, national uprising, state of emergency or any similar event in the territory of the other Contracting Party shall be accorded by this Contracting Party treatment in relation to such losses, including compensation, indemnification or restitution, no less favourable than that which the latter Contracting Party accords to its own investors or investors of any third State,

whichever is more favourable to the investor. Any payment made under this Article shall be paid without undue delay and shall be freely transferable.

## **Article 6. Transfer of Payments**

1 . Each Contracting Party shall guarantee investors of the other Contracting Party the free transfer of payments related to their investments and in particular, though not exclusively:

- a) Initial capital and additional contributions for the maintenance or development of the investments;
- b) The returns;
- c) Funds in repayment of loans related to an investment;
- d) Proceeds from the sale or liquidation of all or part of an investment;
- e) Any compensation or other payment referred to in Articles 4 and 5 of this Agreement;Articles 4 and 5 of this Agreement;
- f) Payments arising out of the settlement of a dispute;
- g) Earnings and other remuneration of nationals engaged from abroad in connection with the investment.

2 . Each Contracting Party shall further guarantee that transfers shall be made at the market rate of exchange existing on the date of transfer with respect to spot transactions in the currency to be transferred.

## **Article 7. Subrogation**

If a Contracting Party or its designated agency makes a payment to its investor under an indemnity given in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall, without prejudice to the rights of the former Contracting Party under Article 9, recognize the assignment to the former Contracting Party or its designated agency of all rights and claims of the investor which that Contracting Party or its designated agency shall be entitled to exercise by virtue of subrogation to the same extend as the party indemnified.

## **Article 8. Disputes between an Investor and a Contracting Party**

1 . Any dispute between an investor of one Contracting Party and of the other Contracting Party shall be settled amicably.

2 . If such a dispute cannot be settled within a period of three (3) months from the date of request for settlement, the investor concerned may submit the dispute either to:

- a) The competent court of the Contracting Party; or
- b) Conciliation or arbitration through the International Center for the Settlement of Investments Disputes (ICSID), established under the Convention on the Settlement of Investments Disputes between States and Nationals of other States, opened for signature in Washington D.C., on March 18, 1965; or Convention on the Settlement of Investments Disputes between States and Nationals of other States, opened for signature in Washington D.C., on March 18, 1965; or
- c) An ad-hoc tribunal which, unless otherwise agreed upon by the parties to the dispute, shall be established under the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL).ad-hoc tribunal which, unless otherwise agreed upon by the parties to the dispute, shall be established under the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL).

3 . The arbitral award shall be final and binding on both parties to the dispute. Each Contracting Party shall inforce it in accordance with its laws and in accordance with the 1958 United Nations Convention of the Recognition and Enforcement of Foreign Arbitral Awards.1958 United Nations Convention of the Recognition and Enforcement of Foreign Arbitral Awards.

## **Article 9. Disputes between the Contracting Parties**

1 . Disputes between the Contracting Parties concerning the interpretation and application of this Agreement should, as far as possible, be settled through negotiations.

2 . If the dispute cannot thus be settled within six (6) months, following the date on which such negotiations were requested by either Contracting Party, it shall at 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 (2) months of the receipt of the request for arbitration, each Contracting Party 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 Parties shall be appointed Chairman of the Tribunal. The Chairman shall be appointed within two (2) 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 is otherwise 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 or is otherwise prevented from discharging the said function, shall be invited to make the necessary 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 any necessary appointments. If the President is a national of either Contracting Party or is otherwise 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 or is otherwise 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. The decisions of the Tribunal shall be final and binding on both Contracting Parties. Each Contracting Party shall bear the costs of the member appointed by that Contracting Party and of its representation at the arbitral proceedings. Both Contracting Parties shall assume an equal share of the cost of the Chairman, as well as any other costs. The Tribunal may make a different decision regarding the sharing of the costs. In all other respects, the Arbitral Tribunal shall determine its own rules of procedure.

## **Article 10. Application of other Rules**

If the provisions of law of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to this Agreement contain a regulation, whether general or specific, entitling investments made by investors of the other Contracting Party to a treatment more favourable than is provided for by this Agreement, such provisions shall, to the extent that they are more favourable, prevail over this Agreement.

## **Article 11. Application of the Agreement**

This Agreement shall apply to all investments, whether made before or after its entry into force, but shall not apply to any dispute concerning an investment which arose, or any claim concerning an investment which was settled, before its entry into force.

## **Article 12. Entry Into Force, Duration and Termination**

1. The Contracting Parties shall notify each other when the constitutional requirements for the entry into force of this Agreement have been fulfilled. The Agreement shall enter into force on the thirtieth (30) day after the date of receipt of the last notification.

2. This Agreement shall remain in force initially for a period of fifteen (15) years and shall be considered as renewed on the same terms for a period of fifteen (15) years and so forth, unless at least twelve (12) months before its expiration either Contracting Party notifies the other in writing of its intention to terminate the Agreement.

3. In respect of investment made prior to the date of termination of this Agreement the provisions of Articles 1 to 11 shall remain in force for a further period of fifteen (15) years from the date of termination of this Agreement. Articles 1 to 11 shall remain in force for a further period of fifteen (15) years from the date of termination of this Agreement.

Done in duplicate at Ljubljana on 13th October 1998 in the Slovenian, Lithuanian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For the Government of the Republic of Slovenia

Marjan Senjur, (s)

For the Government of the Republic of Lithuania

Algirdas Saudargas, (s)