AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF FINLAND AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the Republic of Finland and the Government of the Union of Soviet Socialist Republics,

Desirous of further developing and strengthening mutual ties in the field of commercial, economic, industrial, scientific and technical cooperation,

Taking into account the principles set forth in the Final Act of the Helsinki Conference on Security and Cooperation in Europe of 1 August 1975

Referring to the Long-term Programme to develop and strengthen commercial, economic, industrial, scientific and technical cooperation up until 1990 of 18 May 1977, which was extended until the end of the year 2000 under the Protocol of 6 October 1987 and according to which the Contracting Parties agreed to view the setting up of joint ventures in the USSR as a positive trend in the development of bilateral cooperation,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

(a) The term "investor" means a natural person who is a citizen of Finland or the USSR in accordance with the legislation of those countries, or a legal entity constituted in accordance with the legislation of Finland or the USSR, deemed competent, under the legislation of the country in question, to make investments in the territory of the other Contracting Party;

(b) The term "investment" means every kind of asset which the investors of one Contracting Party invest in the territory of the other Contracting Party in accord- ance with the laws of that Contracting Party, including, in particular:

(1) Movable and immovable property and any other related property rights such as mortgages;

(2) Holdings, stocks and shares in the assets of juridical persons;

(3) Claims to money, debt claims, and claims having a financial value;

(4) Copyright, patents, trademarks, commercial models, and rights to technical processes, commercial secrets, know-how and company names;

(5) Rights, conferred by the legislation of the Contracting Party in whose territory the investment is being made or under valid contract, to engage in commercial activity, including rights relating to the search for, or the development, extraction or exploitation of natural resources;

(c) The term "returns" means the amounts of money or any other asset which are yielded or should be yielded by an investment under the terms of subpara- graph (6) of this article, including in particular, profits, interest, dividends, royalties and other fees.

Article 2. Application of the Agreement

1. This Agreement shall apply to investments made in accordance with the legislation of the Contracting Party in whose territory the investment is made.

2. Under the terms of paragraph 1 of this article, this Agreement shall apply to all investments made since 1 January 1946 by investors of either Contracting Party in the territory of the other Contracting Party.

3. This Agreement shall apply to the territory of either Contracting Party and to the economic zone, fishing zone and continental shelf extending beyond the terri- torial waters of either Contracting Party, beneath which the Contracting Parties, in accordance with international law, exercise jurisdiction and sovereign rights for purposes of the search for, cultivation and preservation of natural resources.

Article 3. Treatment of Investments

1. Each Contracting Party shall in its territory accord fair and equitable treatment to investments or returns of investors of the other Contracting Party.

2. Neither Contracting Party shall in its territory subject investments made in accordance with the provisions of this Agreement by investors of the other Contracting Party, or the return on such investments, to treatment less favourable than that which it accords to investments or returns of investors of third countries.

3. The treatment provided for in paragraph 2 of this article shall not apply to profits and advantages that either Contracting Party grants in respect of the investments and returns of third-country investors on the basis of agreements regarding an economic customs union, a free trade zone, international economic cooperation or the elimination of double taxation.

Article 4. Protection of Investments

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

2. Neither Contracting Party shall adopt in its territory compulsory measures of nationalization, requisition or other measures to expropriate investments made in its territory by investors of the other Contracting Party, except in cases where the interests of the State so require. Should this occur, the procedure established by the legislation in force in that territory shall be applied and appropriate compensation paid.

3. Such measures shall not be discriminatory in nature.

4, The compensation referred to in paragraph 2 of this article shall amount to the real value of the investment expropriated and shall be calculated on the basis of world prices in force at the time immediately prior to the adoption of measures to expropriate the investments or immediately before the decision to adopt such measures became public knowledge. Compensation shall be paid in freely convertible currency at the official foreign exchange rate applicable at the time the value was assessed, unless otherwise agreed upon at the time of initial investment. The amount of compensation shall be transferred promptly and within the limits normally required to conduct transfers, but no later than three months from the adoption of measures under the provisions of paragraph 2 of this article. Compensation shall include interest calculated from the date the actual value of the expropriated investment was assessed up until the date of payment at the rate of interest legally established by the Contracting Party which introduced the compulsory expropriation measures. In the absence of such a rate, the normal commercial interest rate applied by the central bank of the Contracting Party which introduced the obligatory measures shall apply.

5. Any investor affected by such compulsory measures shall be entitled, under the law of the Contracting Party which introduced the compulsory measures, to receive from the appropriate agency or institution of that Contracting Party a prompt and impartial assessment of the value of the expropriated investment under the provisions of paragraph 4 of this article.

6. The provisions of this article shall also apply to returns from investments and amounts due to the investor in connection with the sale or partial or full liquidation of investments.

Article 5. Transfer of Payments Arising Out of Investments

Each Contracting Party shall guarantee to investors of the other Contracting Party the prompt and unrestricted transfer in freely convertible currency of payments arising out of investments, and in particular of:

(1) Profits, dividends, interest, licensing fees, commissions, fees for technical assistance and services and other income derived from investments made by the investor of the other Contracting Party;

(2) Amounts paid to liquidate loans recognized by both Contracting Parties as investments;

(3) Amounts due to the investor as a result of the sale or partial or full liquidation of investments.

Article 6. Promotion of Investments

The Contracting Parties shall, within the limits of their respective legislation, promote the creation of favourable conditions for joint ventures established by Finnish and Soviet natural persons or bodies corporate on the basis of investments made under the provisions of this Agreement. Particular attention will be given to the profitability and self-financing of joint ventures and the production of modern goods that are competitive on the world market. In order to achieve these goals, appropriate conditions for the commercial activity of joint ventures shall be created, including, in particular, the provision of raw materials, energy, manpower, transportation and financial billing services.

Article 7. Accounting Practices

In order to create favourable conditions for evaluating the financial standing and profitability of joint ventures to which this Agreement applies, the Contracting Parties shall hold consultations to improve the accounting practices at the firms concerned in accordance with the legislation of the Contracting Parties.

Article 8. Settlement of Disputes Concerning Investments

1. Each Contracting Party hereby agrees to submit to arbitration any dispute that may arise between it and an investor of the other Contracting Party regarding investments made by that investor in the territory of the first Contracting Party and regarding the amount or payment of compensation under paragraph 4 of article 4 of this Agreement. Written consent of the investor to submit all disputes to arbitration shall also be required.

2, In the event that a dispute should arise which cannot be settled by the Parties to it through negotiation or other means within three months, it shall upon the request of either Party be submitted to an arbitral tribunal.

3. The arbitral tribunal shall have three members. Within two months of the receipt of the request for arbitration as specified in paragraph 2 of this article, each Party shall appoint one member of the tribunal. Those two members shall then within two months of the date at which the last of the two was appointed select a third arbitrator who shall act as Chairman of the arbitral tribunal. The third arbitrator shall be a national of a third State which maintains diplomatic relations with both Contracting Parties.

4. If within the periods specified in the preceding paragraph of this article the necessary appointments have not been made, either Party may, in the absence of any other agreement, invite the Chairman of the Arbitration Institute of the Stockholm Chamber of Commerce to make any necessary appointments.

5. The arbitrators themselves shall decide upon the rules of procedure.

6. Decisions of the arbitrators shall be final and binding on both Parties. The decision shall be recognized and enforced in accordance with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, adopted at New York on 10 June 1958.

7. Unless otherwise determined by the arbitral tribunal, arbitration costs shall be divided equally between the Parties to the dispute.

Article 9. Disputes between the Contracting Parties

Disputes between the Contracting Parties regarding the interpretation or application of this Agreement shall be settled through the diplomatic channel.

Article 10. Subrogation

If one Contracting Party or its designated Agency makes a payment of compensation under an indemnity given in respect of an investment by an investor of the said Contracting Party, then the said Contracting Party or its designated Agency is entitled to exercise by virtue of subrogation the rights of the investor as specified in this Agreement to the extent of the part of the risk that was covered by the guarantee and paid to the investor.

Article 11. National Legislation and International Agreements

This Agreement in no way limits the rights or advantages granted in respect of investments under the national legislation of the Contracting Party in whose territory the investments are made, or under another international agreement to which both Contracting Parties are party.

Article 12. Consultations between the Contracting Parties

Should the need arise, the Contracting Parties shall hold consultations to re- solve any practical questions regarding the application of this Agreement. Consultations shall be held at the request of either Contracting Party. The time and venue for such consultations shall be agreed upon through the diplomatic channel.

Article 13. Entry Into Force, Duration and Termination of the Agreement

1. This Agreement shall enter into force 30 days from the date on which the Contracting Parties notify one another through diplomatic channels of the completion of the constitutional formalities required for the entry into force of this Agreement.

2. This Agreement shall remain in force for a period of 15 years, and shall continue in force after the expiry of that period, provided that it is not terminated as specified in paragraph 3 of this article.

3. Either Contracting Party may, after giving at least one year's written notice to the other Contracting Party through the diplomatic channel, terminate this Agreement by denunciation before the expiry of the initial 15-year term of this Agreement, or at any time thereafter.

4. With respect to investments made before this Agreement ceases to have effect, the provisions of articles 1 to 12 shall remain in force for a period of 15 years after the Agreement ceases to have effect.

Done at Helsinki on 8 February 1989, in two copies in the Finnish and Russian languages, both texts being equally authentic.

For the Government of the Republic of Finland: Erkki LUKANEN

For the Government of the Union of Soviet Socialist Republics: Boris GOSTEV

Exchange of letters

I - Helsinki, 8 February 1989

Sir,

T have the honour to confirm the agreement concluded between the Parties concerning the following interpretation of Article 3, paragraph 2, of the Agreement for the promotion and reciprocal protection of investments, signed on 8 February 1989 between the Government of the Union of Soviet Socialist Republics and the Government of the Republic of Finland, concerning its application in the Union of Soviet Socialist Republics:

The Finnish investors shall be granted in the Union of Soviet Socialist Repub- lics a treatment no less favourable than that which shall be accorded to investors from countries which are presently members of the Organization for Economic Cooperation and Development.

Accept, etc.

B. GosTEev Minister of Finance of the USSR

II - Helsinki, 8 February 1989

Sir,

Ihave the honour to acknowledge receipt of your letter of this day, which reads as follows:

[See letter I]

I confirm that the foregoing accurately reflects that which was agreed upon by the Parties.

Accept, etc.

ERKKI LIIKANEN

Minister of Finance of the Republic of Finland