Agreement on encouragement and reciprocal protection of investments between the Kingdom of the Netherlands and the Czech and Slovak Federal Republic

The Government of the Kingdom of the Netherlands

And

The Government of the Czech and Slovak Federal Republic,

Hereinafter referred to as the Contracting Parties,

In response to the desire to extend and intensify economic relations between them, in particular investments by investors of one Contracting Party in the territory of the other Contracting Party,

Recognizing that agreement on the treatment to be granted to such investments, capital movements and the exchange of technology between, as well as the economic development of the Contracting Parties, and that fair and equitable treatment is desirable,

Referring to the Final Act of the Conference on Security and Cooperation in Europe, signed in Helsinki on 1 August 1975,

Have been agreed as follows:

Article 1.

For the purposes of this Agreement

a. The term "investment" means any type of asset, invested either directly or through an investor of a third State, and in particular, but not exclusively:

i. movable and immovable property and all related property rights;

ii. shares, bonds and other kinds of interests in companies and joint ventures, as well as rights derived therefrom;

iii. title to money and other assets and to any performance having an economic value;

iv. rights in the field of intellectual property, also including technical processes, goodwill and know-how;

v. concessions conferred by law or under contract, including concessions to prospect, explore, extract and win natural resources.

(b) the term ‘investors’ shall comprise:

i. natural persons having the nationality of one of the Contracting Parties in accordance with its law;

ii. legal persons constituted under the law of one of the Contracting Parties.

(c) the term ‘territory’ also includes the maritime areas adjacent to the coast of the State concerned, to the extent to which that State may exercise sovereign rights or jurisdiction in those areas according to international law.

Article 2.

Each Contracting Party promotes investment by investors of the other Contracting Party on its territory and allows such investments in accordance with its legal provisions.

Article 3.

1. Each Contracting Party shall ensure fair and equitable treatment of the investments of investors of the other Contracting Party and shall not impede, by unreasonable or discriminatory measures, the operation, management, conservation, use and enjoyment thereof or the disposal of such Contracting Parties Investors.

2. In particular, each Contracting Party is granting such investment full security and protection, which in any case is not less than that granted to investors of its own investors or to investments of third-country investors, whichever is the most favorable Is for the investor concerned.

3. The provisions of this Article may not be interpreted as requiring a Contracting Party to grant privileges and benefits to investors of the other Contracting Party that are comparable to those permitted to investors of a third State

a. By virtue of the membership of the first-mentioned Party of an existing or future customs union or economic union or similar institutions; or

b. On the basis of an agreement on the avoidance of double taxation or on the basis of reciprocity with a third State.

4. Each Contracting Party shall fulfill all the obligations it has incurred in respect of investments by investors of the other Contracting Party.

5. If, in addition to this Agreement, the laws of one of the Contracting Parties or obligations under international law currently existing or at a later date by the Contracting Parties include general or special arrangements under which investments by investors of the other Contracting Party To claim a treatment that is more favorable than provided for in this Agreement, such arrangements, to the extent that they are more favorable, prevail over this Agreement.

Article 4.

Each Contracting Party ensures that payments relating to an investment can be transferred. The transfers are made in freely convertible currency without undue limitation or delay. These transfers include, in particular, but not exclusively:

a. Profits, interests, dividends, royalties, fees and other current income;

b. Apply for the acquisition of raw materials or auxiliary materials, semi-finished products or end products, or for the development of an investment or to replace capital goods in order to ensure the continuity of an investment; To acquire raw materials or auxiliary materials, semi-finished products or end products, or for the development of an investment or to replace capital goods in order to ensure the continuity of an investment;

c. Apply for repayment of loans;

d. Income from work of natural persons; and

e. The proceeds from the sale or liquidation of the investment.

Article 5.

None of the Contracting Parties shall take measures that directly or indirectly expel their investment from investors of the other Contracting Party, unless the following conditions are met:

a. The measures are taken in the general interest and in accordance with proper judicial proceedings;

b. The measures are not discriminatory;

c. The measures are accompanied by a settlement for the payment of fair compensation. This compensation should be the real value of the investments made and should, if they are effective for the legal person, be paid without unnecessary delay and transferred to the country designated by the beneficiaries concerned and in a freely accepted by the entitled Redeemable currency.

Article 6.

Investors of one Contracting Party who suffer losses in respect of their investments in the territory of the other Contracting Party for war or other armed conflict, a national emergency, civil irregularities or other exceptional circumstances shall be subject to the refund by the latter Contracting Party, Compensation, indemnity or other arrangement, granted no less

favorable treatment than that granted by that Contracting Party to its own investors or to investors of a third State, whichever is the most favorable to the investors concerned.

Article 7.

If the investment of an investor of one Contracting Party is ensured by non-commercial risks under a statutory system, the subrogation of the insurer or reinsurer in the rights of the said investor will be subject to the terms of this insurance by The other Contracting Party.

Article 8.

1. Disputes between one Contracting Party and an investor of the other Contracting Party regarding an investment of the latter are, if possible, appropriate.

2. Each Contracting Party hereby agrees to submit a dispute referred to in paragraph 1 of this Article to an arbitral tribunal if the dispute is not in force within six months after the date on which one of the parties to the dispute Dispute for an amicable settlement.

3. The arbitration tribunal referred to in the second paragraph of this article shall be composed in each individual case as follows: each party to the dispute shall appoint one member of the tribunal and the two so appointed members shall elect a third-country national as chairman of the tribunal. Each party to the dispute appoints its member of the arbitration tribunal within two months and the Chairman shall be appointed within three months of the date on which the investor has notified the other Contracting Party of his decision to submit the dispute to the arbitral tribunal.

4. If the appointments have not been made within the aforementioned terms, each of the parties to the dispute may request the President of the Arbitration Institute of the Chamber of Commerce of Stockholm to make the necessary appointments. If the President is a national of one of the Contracting Parties or if he is otherwise prevented from exercising this function, the Vice-President shall be required to make the necessary appointments. If the Vice-President is a member of one of the Contracting Parties or, if he is prevented from exercising this function, the member of the Arbitration Institute, who is highest in seniority and not a national of one of the Contracting Parties, requested the To make necessary appointments.

5. The arbitral tribunal shall establish its own procedure, applying the arbitration rules of the UN Commission on International Trade Law (UNCITRAL).

6. The arbitral tribunal shall decide on the basis of the law, taking into account, in particular, but not exclusively:

- The current legislation of the Contracting Party concerned;

- The provisions of this Agreement and other relevant agreements between the Contracting Parties;

- The provisions of special agreements relating to the investment;

- The general principles of international law.

7. The arbitral tribunal shall take its decision by a majority of votes; This decision is irrevocable and binding on the parties to the dispute.

Article 9.

Each of the Contracting Parties may propose to the other Party to consult on any matter concerning the interpretation or application of the Agreement. The other party will take this consultation in a favorable opinion and will offer suitable opportunity for this.

Article 10.

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement may be appropriate in the memory.

2. If a dispute between the Contracting Parties can not be settled in this way, it shall be submitted to an arbitral tribunal at the request of either Contracting Party.

3. Such an arbitral tribunal shall be composed in each individual case in the following manner. Within two months of receiving the request for arbitration, each Contracting Party shall appoint one member of the arbitration tribunal. These two members then choose a third-country national who is appointed chairman of the arbitral tribunal. The Chairman shall be appointed within two months after the date of appointment of the other two members.

4. If the necessary appointments have not been made within the terms of paragraph 3 of this article, each of the Contracting Parties may request the President of the International Court of Justice to make the necessary appointments. If the President is a Contracting Party or if he is otherwise prevented from exercising this function, the Vice-President is requested to make the necessary appointments. If the Vice-President is a member of one of the Contracting Parties or, if he is prevented from exercising this function, the member of the International Court of Justice who is highest in seniority and is not a national of one of the Contracting Parties requested the necessary appointments to perform.

5. The arbitral tribunal shall determine its own procedure. The decision of the arbitral tribunal is irrevocable and binding on both Contracting Parties.

6. Before making a decision, the arbitral tribunal may propose an amicable settlement of the dispute to the Parties in any state of the proceedings.

7. The arbitral tribunal shall decide on the basis of this Agreement and other relevant agreements between the two Contracting Parties, the general principles of international law and the general rules of law that the arbitration tribunal considers appropriate. The foregoing provisions do not affect the jurisdiction of the arbitral tribunal to (1)) to make a verdict in the dispute ex aequo et bono if the parties agree.

8. Each Contracting Party shall bear the costs of its representation in the arbitration proceedings; The costs of the President and the remaining costs shall be borne by the Contracting Parties in equal parts. However, the arbitral tribunal may in its decision order one of the two Contracting Parties to bear a greater share of the costs and this ruling is irrevocable and binding on both Contracting Parties.

Article 11.

As far as the Kingdom of the Netherlands is concerned, this Agreement applies to the part of the empire in Europe, the Netherlands Antilles and Aruba, unless otherwise provided in the notice provided for in Article 13, paragraph 1.

Article 12.

The provisions of this Agreement shall also apply to investments made after 1 January 1950 from the date of its entry into force.

Article 13.

1. This Agreement shall enter into force on the first day of the second month following the date on which the Contracting Parties have notified each other in writing that the Constitutionally Required Procedures in their respective countries have been met and shall remain in effect for a period of ten Year.

2. Unless either Contracting Party has given notice of termination at least six months before the date of expiry of the period of validity, this Agreement shall be renewed tacitly for a term of ten years, with each Contracting Party having the right to terminate the Agreement. Subject to a notice period of at least six months before the expiry of the current term of validity.

3. In respect of investments made before the date of termination of this Agreement, the foregoing articles shall remain in force for a period of fifteen years from that date.

4. Subject to the period referred to in the second paragraph of this Article, the Government of the Kingdom of the Netherlands shall be entitled to terminate the application of this Agreement in respect of part of the Kingdom separately.

IN WITNESS WHEREOF the signatory representatives, duly authorized thereto, have signed this Agreement.

DONE in duplicate in Prague on 29 April 1991 in the English, Dutch and Czech languages, the three texts being equally authentic. In case of differences in interpretation, the English text is decisive.

For the Government of the Kingdom of the Netherlands,

(W.w.) Y. VAN ROOY

(W.g.) H. J. HEINEMANN

For the Government of the Czech and Slovak Federal Republic,

(W.g.) JOZEF BAKÅ AY