

# **AGREEMENT BETWEEN THE BELGO-LUXEMBOURG ECONOMIC UNION AND THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC ON THE RECIPROCAL ENCOURAGEMENT AND PROTECTION OF INVESTMENTS**

THE GOVERNMENT OR THE KINGDOM OF BELGIUM, acting both on its own behalf and on behalf of the Government of the Grand Duchy of Luxembourg, under existing agreements, and

THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC,

DESIRING to strengthen their economic cooperation by creating favourable conditions for the realisation of investments by investors of one of the Contracting Parties in the territory of the other Contracting Party,

CONSIDERING the beneficial influence that such an Agreement could have in improving business contacts and - strengthening confidence in the field of investment,

HAVE AGREED ON THE FOLLOWING

## **Article 1.**

1. The term "investment" means any asset and any direct or indirect contribution in any company or joint venture in any sector of economic activity, including but not limited to the following:

- a) movable and immovable property, as well as all other rights in rem;
- b) Shares and other forms of participation in companies;
- c) claims and rights to any performance having an economic value;
- d) copyrights, trademarks, patents, technical processes, trade names and any other rights of industrial property, and goodwill;
- e) concessions under public law.

Any alteration of the form in which assets and capital invested or reinvested shall not affect their character as "investment" within the meaning of this Agreement.

2. The term investor means:

- a) any natural person who, according to Belgian, Luxembourg or Hungarian legislation, is considered a citizen of the Kingdom of Belgium, the Grand Duchy of Luxembourg or the Hungarian People's Republic respectively;
- b) any legal person constituted under the laws of Belgium, Luxembourg, or Hungary and having its registered office in the territory of Kingdom of Belgium, the Grand-Duchy of Luxembourg or of the Hungarian People's Republic respectively.

## **Article 2.**

1. Each Contracting Party shall encourage investments of investors of the other Contracting Party in its territory and admit such investments in accordance with its legislation.

2. This Agreement shall apply to investments made in the territory of each of the Contracting Parties with investors of the other Contracting Party from 1 January 1973.

3. This agreement does not extend to the privileges granted by either contracting party to any third State under an

agreement for the avoidance of double taxation or any other arrangement relating to taxation.

### **Article 3.**

1. Each Contracting Party undertakes to ensure in its territory to investments of investors of the other Contracting Party fair and equitable treatment excluding any unjustified or discriminatory measure which could adversely affect their management, maintenance, use, enjoyment or disposal.
2. Subject to the measures necessary for the maintenance of public order, these investments shall enjoy security and constant protection at least equal to those enjoyed by investors of the most favoured nation.
3. However, the treatment and protection referred to in paragraphs 1 and 2 shall not extend to the privileges which one of the Contracting Parties may accord to investors of a third State by virtue of its participation in an economic union or association, a customs union, a common market or a free trade area or regional economic organization.

### **Article 4.**

1. Investments made by investors of one Contracting Party in the territory of the other Contracting Party shall not be expropriated or subjected to any other measures of direct or indirect dispossession having a similar effect unless the following conditions are met:
  - a) The measures are taken in the public interest and under due process;
  - b) they are neither discriminatory nor contrary to a specific engagement as referred to in Article 7 (2);
  - c) they are accompanied by provisions for the payment of compensation the amount of which shall correspond to the real value of the affected investments immediately before the date the measures are taken or are made publicly available. The compensation shall be paid to investors shall be paid without delay in a convertible currency and freely transferable.
2. Investors of either Contracting Party whose investments suffer losses in the course of a war or other armed conflict, a state of emergency, national or riot occurring in the territory of the other Contracting Party, shall be accorded by the latter in a non-discriminatory manner and not less than that accorded to the investors of the most favoured nation treatment, as regards compensation, restitution, compensation or other remedies. Compensation payable pursuant to this paragraph shall be paid in accordance with the provisions of paragraph 1 c).
3. This treatment shall apply to investors, holders of either contracting party of any form of participation in an enterprise in the territory of the other Contracting Party.
4. In any case, each Contracting Party shall accord to investors of the other Contracting Party in its territory treatment at least equal to that accorded to investors of the most favoured nation.

### **Article 5.**

1. Each Contracting Party shall guarantee to investors of the other Contracting Party the free transfer of funds in convertible currency related to their liquid and an investment in particular, though not exclusively:
  - a) capital and additional amounts to maintain or increase the investment;
  - b) profits, dividends, interests and other current income;
  - c) amounts necessary for the repayment of loans;
  - d) fees or other charges;
  - e) proceeds from a total or partial liquidation of the investment;
  - f) compensation pursuant to Article 4.
2. The transfers referred to in paragraph 1 shall be made at the rate of exchange applicable at the date of transfer pursuant to the exchange regulations in force for each category of operations.
3. The guarantees provided for in paragraphs 1 and 2 shall be at least equal to those accorded to investors of the most favoured nation in similar situations.

## **Article 6.**

1. If under a legal or contractual guarantee covering non-commercial investment risks, indemnities are paid to an investor of either Contracting Party, the other Contracting Party shall recognize the subrogation into the insurer of the rights of the investor indemnified.
2. In accordance with the guarantee given to the Investment, the insurer concerned shall be entitled to claim all the rights that the investor might exercise if the insurer had not been subrogated.
3. Any dispute between one Contracting Party and the insurer of an investor of the other Contracting Party shall be settled conforming to the provisions of Article 9 of this Agreement.

## **Article 7.**

1. Where a matter relating to investment is simultaneously governed by this Agreement and by national legislation or regulations of either Contracting Party or existing international obligations or undertaken by the parties in the future, investors of the other contracting party may avail itself of the provisions that are most favourable.
2. Investors of one Contracting Party may conclude with the other contracting party of the specific commitments which cannot be contrary to this Agreement. Investments made under such specific commitments are to be governed by this Agreement for the remainder.

## **Article 8.**

1. Disputes concerning the interpretation or application of this Agreement shall be settled as far as possible between the Parties through diplomatic channels.
2. If the dispute is submitted to a joint commission composed of representatives of the Parties; which it shall meet without delay and at the request of either party.
3. If the joint commission cannot settle the dispute within six months of the start of negotiations, it shall be submitted to an arbitral tribunal, at the request of one of the Contracting Parties.
4. The Tribunal shall be constituted as follows: each Contracting Party shall appoint one arbitrator and the two arbitrators shall appoint a third arbitrator, who is a national of a third State, as Chairman of the Tribunal. The arbitrators shall be appointed within three months and the Chairman, within five months from the date on which either Contracting Party has informed the other Contracting Party of its intention to submit the dispute to an arbitration tribunal.
5. If the time limits set out in paragraph 4 have not been observed, the Secretary-General of the United Nations shall be invited to make the necessary appointments.
6. The arbitral tribunal shall decide on the basis of the provisions of this Agreement and the rules and the generally recognized principles of International Law.
7. The tribunal shall determine its own rules of procedure.
8. The tribunal shall reach its decisions by a majority of the votes; they shall be final and binding on the Contracting Parties.
9. Each Contracting Party shall bear the costs of its own arbitrator and its representation in the arbitral proceedings. The cost of the Chairman and the remaining costs shall be borne equally by the Contracting Parties.

## **Article 9.**

1. Any dispute between one Contracting Party and an investor of the other contracting party, in respect of expropriation, nationalization or any other similar measures affecting investment is subject to a written notification accompanied by a detailed memorandum addressed by an investor of one of the Contracting Parties to the other contracting party. to the extent possible, the dispute shall be settled amicably between the parties.
2. If the dispute cannot be settled within six months from the date of the written notification mentioned in paragraph 1, it shall be submitted to arbitration to one of the following bodies, designated at the choice of the investor:
  - a) The Arbitration Institute of the Stockholm Chamber of Commerce;

b) The Court of Arbitration of the International Chamber of Commerce at Paris;

c) The International Centre for Settlement of Investment Disputes (ICSID), established by the Convention on the settlement of disputes relating to investments between States and Nationals of Other States, opened for signature in Washington on 18 March 1965, when each State Party to this agreement would be a member thereof.

3. If the arbitration proceedings shall be submitted at the request of either Contracting Party, the request in writing of the investor concerned to express his choice of the arbitral body that must be seized of the dispute. If the investor is not express within one month from the date of receipt of that request, the Contracting Party shall submit its request for arbitration to the body of his choice.

4. Neither Contracting Party, party to the dispute, can raise as an objection, at any stage of the arbitration proceedings or enforcement of an arbitration award, the fact that the investor, complaining party in the dispute, has received an indefinite covering the whole or part of its losses by virtue of an insurance policy or to the guarantee provided in Article 6.

5. The arbitration body shall decide on the basis of:

- The national law of the Contracting Party involved in the dispute in whose territory the investment is located, including its rules on the Conflict of Laws;
- The provisions of this Agreement;
- in terms of the specific commitments in respect of the investment;
- The rules and principles of International Law recognized.

6. The arbitration awards shall be final and binding on the parties to the dispute. Each Contracting Party undertakes to execute the decisions in accordance with its national law.

## **Article 10.**

1. This Agreement shall enter into force one month from the date on which the Contracting Parties have notified each other that the constitutional procedures required in their respective countries have been completed. It shall remain in force for a period of ten years. Unless one of the Contracting Parties denounces it at least six months before the expiry of its period of validity, it shall each time be tacitly renewed for a further period of ten years, each Contracting Party reserving the right to denounce it by means of a notification submitted at least twelve months before the date of expiry of the current period of validity.

2. Investments made prior to the termination of this Agreement shall continue to apply for a period of ten years after the expiration date.

IN WITNESS WHEREOF, the undersigned representatives, duly authorized by their respective Governments, have signed the present Agreement.

Done at Budapest on 14 May 1986.

In two original in French and Hungarian languages, both texts being equally authentic.

For the Government of the People's Republic of Hungary:

I. Hetenyi

For the Government of the Kingdom of Belgium, acting in the name and on behalf of the Government of the Grand Duchy of Luxembourg

H. de Croo