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Latvia
and
Romania

Agreement hetween the Government of the Repuhlic of Latvia and the Government of Romania on the promotion and reciprocal protection of investments. Riga, 27 Novemher 2001

Entry into force: *22 August 2002 by notification, in accordance with article 11*

Authentic texts: *English, Latvian and Romanian*

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Lettonie
et
Roumanie

Accord entre le Gouvernement de la Répuhlique de Lettonie et le Gonvernement de la Roumanie relatif à la promotion et à la protection réciproque des investissements. Riga, 27 novemhre 2001

Entrée en vigueur : *22 août 2002 par notification, conformément à l'article 11*

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[ENGLISH TEXT — TEXTE ANGLAIS]

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF LATVIA AND THE GOVERNMENT OF ROMANIA ON THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the Republic of Latvia and the Government of Romania herein referred to as the "Contracting Parties",

Desiring to intensify economic co-operation to the mutual benefit of both States,

Intending to create and maintain favourable conditions for investments by investors of the State of one Contracting Party in the State territory of the other Contracting Party,

Recognising the need to promote and protect foreign investments with the aim to foster the economic prosperity of both States,

Have agreed as follows:

Article 1. Definitions

For the purpose of this Agreement:

(1) The term "investor" refers, with regard to either Contracting Party, to the following subjects who made investments in the State territory of the other Contracting Party:

- In respect of the Republic of Latvia:
  a) "natural person" means a citizen or non-citizen in accordance with the law of the Republic of Latvia;
  b) "legal person" means any entity incorporated or constituted in accordance with the law of the Republic of Latvia.
- In respect of Romania:
  a) "natural person" means a citizen in accordance with the law of Romania;
  b) "legal person" means legal entities, including companies, corporations, business associations and other organizations which are constituted or otherwise duly organised in accordance with the law of Romania and have their seat, together with real economic activities, in the territory of Romania.

(2) The term "investments" shall mean every kind of assets invested by investors of one Contracting Party in the State territory of the other Contracting Party, in accordance with the laws and regulations of the State of the latter, and include particularly, but not exclusively:

a) movable and immovable property as well as any other rights in rem, such as servitudes, mortgages, liens, pledges;

b) shares, parts or any other kinds of participation in companies;

c) claims to money or to any rights to any performance having an economic value;

d) intellectual property rights, such as copyrights, patents, industrial designs or models, trade or service marks, trade names, know-how and goodwill, as well

as other similar rights recognised by the national laws of the Contracting Parties;

e) concessions under public law, including eoncessions to search, extract or exploit of natural resources as well as all other rights given by law, by contract or by decision of the authority in accordance with the law.

Any alteration of the form in which assets are invested or reinvested shall not affect their character as investment.

(3) The term "returns" means amounts yielded by an investment and in particular, though not exclusively, includes profits, dividends, interests, capital gains, royalties, management and technical assistance or other fees, irrespective of the form in which the return is paid.

(4) The term "territory" means:

- In respect of the Republic of Latvia, the territory of the Republic of Latvia including the territorial sea, as well as any maritime area beyond which Latvia in conformity with international law, exercises sovereign rights with regard to the seabed and subsoil and the natural resources of such areas.
- In respect of Romania, the territory of Romania, including its territorial sea and the airspace above its territory and territorial sea over which Romania exercises its sovereignty, as well as the contiguous zone, continental shelf and exclusive economic zone over which Romania exercises its jurisdiction, respective sovereign rights, in accordance with its legislation and international law.

Article 2. Promotion, Admission

(1) Each Contracting Party shall, in its State territory, promote as far as possible, investments by investors of the other Contracting Party and admit such investments in accordance with its national laws and regulations.

(2) When a Contracting Party shall have admitted an investment in its State territory, it shall, in accordance with its national laws and regulations, grant the necessary permits in connection with such an investment, including authorisations for engaging top managerial and technical personnel of their choice, regardless of citizenship, on a non-discriminatory basis.

Article 3. Protection, Treatment

(1) Each Contracting Party shall protect within its State territory investments made in accordance with its national laws and regulations by investors of the other Contracting Party and shall not impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment, extension, sale or liquidation of such investments. In particular, each Contracting Party or its competent authorities shall issue the necessary authorisations mentioned in Article 2, paragraph (2) of this Agreement.

(2) Each Contracting Party shall ensure fair and equitable treatment within its State territory of the investments of the investors of the other Contracting Party. This treatment shall

not be less favourable than that granted by each Contracting Party to investments made within its State territory by its own investors, or than that granted by each Contracting Party to the investments made within its State territory by investors of any third State, if this latter treatment is more favourable.

(3) The most favoured nation treatment shall not be construed so as to oblige a Contracting Party to extend to the investors and investments of the other Contracting Party the advantages resulting from any existing or future customs or economic union, a free trade area or regional economic union, to which either of the Contracting Parties is or becomes a member. Nor shall such treatment relate to any advantage, which either Contracting Party accords to investors of a third State by virtue of a double taxation agreement or other agreements on a reciprocal basis regarding tax matters.

Article 4. Free Transfer

(1) Each Contracting Party in whose State territory investments have been made by investors of the other Contracting Party shall grant those investors the free transfer of the payments relating to these investments, particularly of:

a) returns according to Article 1, paragraph (3) of this Agreement;

b) amounts relating to loans incurred, or other contractual obligations undertaken, for the investment;

c) proceeds accruing from the total or partial sale, alienation or liquidation of an investment.

Transfers shall be effected without delay, in convertible currency.

(2) Unless otherwise agreed with the investor, transfers shall be made pursuant to the national laws and regulations in force of the Contracting Party in whose State territory the investment was made, at the rate of exchange applicable on the date of transfer.

Article 5. Dispossession, Compensation

(1) Neither of the Contracting Parties shall take, either directly or indirectly, measures of expropriation, nationalisation or any other measures having the same nature or the same effect against investments of investors of the other Contracting Party, unless the measures are taken in the public interest as established by law, on a non-discriminatory basis and under due process of law, and provided that provisions be made for effective and adequate compensation. The amount of compensation, interest included, shall be settled in a convertible currency and paid without delay to the investor entitled thereto. Resulting payments shall be freely and promptly transferable.

(2) The investors of one Contracting Party whose investments have suffered losses due to a war or any other armed conflict, revolution, state of emergency or rebellion, which took place on the State territory of the other Contracting Party shall benefit, from the part of this latter, of a treatment in accordance with Article 3, paragraph (2) of this Agreement. They shall, in all events, be entitled to compensation.

Article 6. Pre-agreement Investments

The present Agreement shall apply to investments in the State territory of a Contracting Party made in accordance with its national laws and regulations by investors of the other Contracting Party whether prior to or after the entry into force of this Agreement. However, the Agreement shall not apply to disputes that have arisen before its entry into force.

Article 7. Other Obligations

(1) If the national legislation of either Contracting Party entitles investments by investors of the other Contracting Party to treatment more favourable than is provided for by this Agreement, such legislation shall, to the extent that it is more favourable, prevail over this Agreement.

(2) Each Contracting Party shall observe any other obligation it has assumed with regard to investments in its State territory by investors of the other Contracting Party.

Article 8. Principle of Subrogation

If either Contracting Party or its designated agency makes payment to one of its investors under any financial guarantee against non-commercial risks it has granted in regard of an investment in the State territory of the other Contracting Party, the latter shall recognise, by virtue of the principle of subrogation, the assignment of any right or title of that investor to the first Contracting Party or its designated agency. The other Contracting Party shall be entitled to set off taxes and other public charges due and payable by the investor.

Article 9. Settlement of Disputes Between a Contracting Party and an Investor of the other Contracting Party

(1) For the purpose of solving disputes with respect to investments between a Contracting Party and an investor of the other Contracting Party, consultations will take place between the parties concerned with a view to solving the case, as far as possible, amicably.

(2) If these consultations do not result in a solution within six months from the date of request for settlement, the investor may submit the dispute, at his choice, for settlement to:

a) the competent court of the Contracting Party in the State territory of which the investment has been made; or

b) the International Centre for Settlement of Investment Disputes (ICSID) provided for by the Convention on the Settlement of Investment Disputes between States and Nationals of the other States, opened for signature at Washington, on March 18, 1965; or

c) an ad hoc arbitral 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) Each Contracting Party hereby consents to the submission of an investment dispute to international conciliation or arbitration.

(4) The Contracting Party, which is a party to the dispute, shall, at no time whatsoever during the procedures involving investment disputes, assert as a defence its immunity or the fact that the investor has received compensation under an insurance contract covering the whole or part of the incurred damage or loss.

Article 10. Settlement of Disputes Between Contracting Parties

(1) Disputes between Contracting Parties regarding the interpretation or application of the provisions of this Agreement shall be settled through diplomatic channels.

(2) If both Contracting Parties cannot reach an agreement within twelve months after the beginning of the dispute between themselves, the latter shall, upon request of either Contracting Party, be submitted to an arbitral tribunal of three members. Each Contracting Party shall appoint one arbitrator, and these two arbitrators shall nominate a chairman who shall be a citizen of a third State.

(3) If one of the Contracting Parties has not appointed its arbitrator and has not followed the invitation of the other Contracting Party to make that appointment within two months, the arbitrator shall be appointed, upon the request of that Contracting Party, by the President of the International Court of Justice.

(4) If both arbitrators cannot reach an agreement about the choice of the chairman within two months after their appointment, the latter shall be appointed, upon the request of either Contracting Party, by the President of the International Court of Justice.

(5) If, in the cases specified under paragraphs (3) and (4) of this Article, the President of the International Court of Justice is prevented from carrying out the said function or if he is a citizen of the State of either Contracting Party, the appointment shall be made by the Vice-President, and if the latter is prevented or if he is a citizen of the State of either Contracting Party, the appointment shall be made by the most senior Judge of the Court who is not a citizen of the State of either Contracting Party.

(6) Subject to other provisions made by the Contracting Parties, the tribunal shall determine its procedure.

(7) Each Contracting Party shall bear the cost of the arbitrator it has appointed and of its representation in the arbitral proceedings. The cost of the chairman and the remaining costs shall be borne in equal parts by the Contracting Parties.

(8) The decisions of the tribunal are final and binding for each Contracting Party.

Article 11. Final Provisions

(1) This Agreement shall enter into force thirty days after the date of the last notification, which the Contracting Parties shall have communicated each other that their internal legal requirements for the entry into force of this Agreement have been fulfilled. It shall remain in force for an initial period of ten years. Unless official notice of denunciation is

given six months before the expiration of this period, the Agreement shall be considered as renewed on the same terms for further periods of ten years.

(2) In case of official notice as to the denunciation of the present Agreement, the provisions of the Article 1 to 10 shall continue to be effective for a further period of ten years for investments made before official notice was given.

In Witness Thereof the Undersigned, being duly authorised by their respective Governments, have signed this Agreement.

Signed in Riga on 27 of November, 2001 in two originals, each in Latvian, Romanian and English languages, all texts being equally authentic. In case of difference of interpretation, the English text shall prevail.

For the Government of the Republic of Latvia:

AIGARS KALVITIS

For the Government of Romania:

GHEORGE ROMEO LEONARD KAZAN