

Agreement between the Government of the Republic of Cyprus and the Government of Seychelles for the Reciprocal Promotion and Protection of Investments

The Government of the Republic of Cyprus and the Government of Seychelles,

Hereinafter referred to as the Contracting Parties,

Desiring to intensify their economic cooperation to the mutual benefit of both States on a long-term basis,

Having as their objective to create favourable conditions for investments by investors of either Party in the territory of the other Party,

Have agreed as follows:

Article 1 Definitions

For the purposes of this Agreement:

1. The term "investments" shall comprise every kind of asset invested by investors of one Contracting Party in the territory of the other Contracting Party in accordance with the latter's legislation, and in particular, though not exclusively:

- (a) movable and immovable property as well as any other property rights in respect of every kind of asset,
- (b) rights derived from shares, bonds and other kinds of interests in companies,
- (c) title to money, goodwill and other assets and to any performance having an economic value,
- (d) rights in the field of intellectual property technical processes and know-how.

A possible change in the form in which the investments have been made does not affect their substance as investments, provided that such a change does not contravene the laws and regulations of the Contracting Party in the territory of which the investments were made.

2. The term "returns" means those net amounts derived from the investments for a certain period of time, such as shares of profits, dividends, interest, royalties and other fees, proceeds from total or partial liquidation of the investments.

3. The term "investor" shall comprise with regard to either Contracting Party:

- (a) natural persons having the citizenship of that Contracting Party in accordance with its law,
- (b) legal persons constituted or incorporated in compliance with the law of that Contracting Party and having their seat in the territory of the same Contracting Party who, in compliance with this Agreement are making investments in the territory of the other Contracting Party.

4. The term "territory" shall mean the territory of the Republic of Cyprus or the territory of Seychelles, and shall include their respective exclusive economic zone and continental shelf as defined by the international law.

5. The term "make investments" or "investments made" shall mean establishing new investments, acquiring all or part of existing investments or moving into different fields of investment activity.

Article 2 Promotion and Protection of Investments

1. Each Contracting Party shall promote and shall admit, in accordance with its legislation, in its territory the investments by investors of the other Contracting Party.

2. Investments made in compliance with the laws and regulations of the Contracting Party in the territory of which they are effected, enjoy the protection of the present Agreement.

3. In cases of approved reinvestments, the incomes derived therefrom enjoy the same protection as the original investments.

4. Each Contracting Party shall ensure in its territory fair and equitable treatment and full protection and security of the investments of investors of the other Contracting Party and shall not impair, by unreasonable or discriminatory measures the management, maintenance, use, enjoyment or disposal thereof by those investors.

5. Each Contracting Party shall observe any other obligation it may have entered into with regard to investments of investors of the other Contracting Party.

Article 3 Treatment of Investments

1. Each Contracting Party shall accord in its territory to investments of investors of the other Contracting Party and their related activities including management, maintenance, use, enjoyment or disposal, treatment no less favourable than that which it accords to investments of investors of any third State and their related activities including management, maintenance, use, enjoyment or disposal.

2. If a Contracting Party has accorded special advantages to investors of any third State by virtue of agreements establishing a common market, a customs union, economic union or similar institutions, or on the basis of interim agreements leading to such unions or institutions, that Contracting Party shall not be obliged to accord such advantages to investors of the other Contracting Party.

3. The treatment granted under the present Article shall not extend to taxes, fees, charges and to fiscal deductions and exemptions granted by either Contracting Party to investors of third States by virtue of a double taxation agreement or other arrangements regarding matters of taxation.

Article 4 Expropriation

1. Investments by investors of one Contracting Party made in the territory of the other Contracting Party shall not be expropriated, nationalized or subjected to measures equalling in terms of their consequences with expropriation or nationalization (hereinafter referred to as expropriation), except in cases in which such measures are taken in the public interest and in accordance with the procedure established by law, are not discriminatory and are accompanied by prompt, adequate and effective compensation. The amount of compensation should correspond to the market value of the affected investment immediately before the actual measure was taken or became public knowledge, whichever is earlier. Compensation shall be paid without undue delay in convertible currency. The amount of compensation shall carry interest from the date of expropriation until the date of payment, corresponding to the interest rate of the Contracting Party in the territory of which the investment was made.

2. The provisions of paragraph 1 of this Article shall also apply where a Contracting party expropriates the assets of a company which is constituted under the laws in force in any part of its own territory and in which investors of the other Contracting Party own shares.

Article 5 Compensation for losses

1. If investments of investors of one Contracting Party whose investments, in the territory of the other Contracting Party, suffer losses owing to armed conflict, a state of national emergency, civil disturbance or other similar circumstances in the territory of the latter Contracting Party, that Contracting Party shall accord treatment as regards restitution, indemnification, compensation or other settlement, not less favourable than that which it accords to its own investors or to investors of any third State.

2. Without prejudice to paragraph 1 of this Article, investors of one Contracting Party who, in any of the situations referred to in that paragraph suffer losses in the territory of the other Contracting Party resulting from:

- (a) requisitioning of their investment or part thereof by the latter's forces or authorities, or
- (b) destruction of their investment or part thereof by the latter's forces or authorities, which was not required by the necessity of the situation, shall be accorded restitution or compensation which in either case shall be prompt, adequate and effective.

Article 6 Transfer of Payments

1. Each Contracting Party shall guarantee, in respect of investments of investors of the other Contracting Party, the unrestricted transfer of the investment and the ensuing returns. The transfers shall be effected, without delay, in a freely convertible currency and at the bank rate of exchange, applicable on the date of transfer.

2. Such transfers include in particular, though not exclusively:

- (a) capital and additional amounts to maintain or increase the investment,
- (b) profits, interest, dividends and other current income,
- (c) funds in repayment of loans,
- (d) royalties and other fees,
- (e) proceeds of sale or liquidation of the whole or any part of the investment,
- (f) unspent earnings of nationals of one Contracting Party who work in connection with an investment in the territory of the other Contracting Party,
- (g) compensation as provided in Articles 4 and 5 of this Agreement.

Article 7 Subrogation

1. If a Contracting Party or its authorized agency makes any payment to its own investor under a guarantee it has accorded in respect of any investment in the territory of the other Contracting Party, the former Contracting Party or its authorized agency shall be subrogated to the rights and obligations of the investor, without prejudice to the rights of the investor under Article 10 of this Agreement.

2. Such rights shall be exercised by the insurer to the extent of the proportion of the risk covered by the contract or guarantee while the investor continues to be entitled to benefit from the guarantee to the extent of the proportion of the risk not covered by the contract.

3. As far as the transferred rights are concerned, the other Contracting Party shall be entitled to invoke against the insurer who is subrogated into the rights of the indemnified investor the obligations of the latter under the law or contract.

4. In relation to the transfer of payments to the Contracting Party or its authorized agency by virtue of this assignment the provisions of Article 6 of this Agreement shall apply.

5. Disputes between a Contracting Party and an insurer shall be resolved in accordance with the provisions of Article 10 of this Agreement.

Article 8 Application of other Rules

If the provision of law of either Contracting Party or provision of international agreement established between the Contracting Parties contain, at present or hereafter, rules, whether general or specific, entitling investments by investors of the other Contracting Party to a treatment more favourable than that provided for by the present Agreement, such rules shall prevail over the present Agreement.

Article 9 Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation and application of this Agreement should be settled amicably through diplomatic channels.

2. If the dispute cannot thus be settled within six months from the beginning of the negotiations, it shall upon the request of either Contracting Party be submitted to an arbitral tribunal.

3. The arbitral tribunal shall be constituted as follows: Each Contracting Party shall appoint one arbitrator and these two arbitrators shall agree upon a national of a third State as Chairman. 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 that it intends to submit the dispute to an arbitral tribunal.

4. If within the periods specified in paragraph 3 of this Article the necessary appointments have not been made, any Party to the dispute may, in the absence of any other agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President of the Court is a national of any Party to the dispute or of a State with which one of the Contracting Parties does not maintain diplomatic relations or if he is otherwise prevented from undertaking the said function, the Vice-President or if he is a national of any Party or of a State with which one of the Contracting Parties does not maintain diplomatic relations, or is otherwise prevented from undertaking the said function, the member of the Court next in seniority who is not a national of any Party to the dispute or of a State with which one of the Contracting Parties does not maintain diplomatic relations shall be invited to make the necessary appointments.

5. Chairman of the arbitral tribunal shall be a national of a third State with which both Contracting Parties maintain diplomatic relations.

6. The arbitral tribunal shall decide on the basis of respect for the law, including particularly the present Agreement and other relevant agreements existing between the two Contracting Parties and the universally acknowledged rules and principles of international law.

7. Unless the Parties decide otherwise, the tribunal shall determine its own procedure.

8. The tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding on the Parties.

9. Each Contracting Party shall bear the cost of the arbitrator appointed by itself and of its representation. The cost of the Chairman as well as the other costs will be borne in equal parts by the Contracting Parties. The tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two Contracting Parties.

Article 10 Disputes between an Investor and a Contracting Party

1. Any dispute which may arise between an investor of one Contracting Party and the other Contracting Party concerning an obligation of the latter under this Agreement shall be subject to negotiations between the parties in the dispute.

2. If any dispute between an investor of one Contracting Party and the other Contracting Party continues to exist after a period of six months, the parties in the dispute shall be entitled to submit the dispute to any of the following bodies, at the option of the investor concerned:

- (a) the Arbitration Institute of the Arbitral Tribunal of the Chamber of Commerce in Stockholm,
- (b) the Arbitral Tribunal of the International Chamber of Commerce in Paris,
- (c) the International Centre for the Settlement of Investment Disputes (ICSID) established by the Convention of 18 March 1965 on the Settlement of Investment Disputes between States and Nationals of Other States,
- (d) a competent court of justice of the Contracting Party in the territory of which the investment is established.

3. In the case that the investor decides to submit the dispute to international arbitration, each Contracting Party hereby consents to the submission of such dispute to international arbitration.

4. The arbitral tribunal shall decide the dispute in accordance with the provisions of this Agreement and the applicable rules and principles of international law. The awards of arbitration shall be final and binding on both parties to the dispute. Each Contracting Party shall carry out without delay any such award and such award shall be enforced in accordance with domestic law.

5. During arbitration proceedings or the enforcement of the award, a Contracting Party involved in the dispute shall not raise the objection that the investor of the other Contracting Party has received compensation under an insurance contract in respect of all or part of the damage.

Article 11 Review of the Agreement

Representatives of the Contracting Parties shall, whenever necessary, hold meetings in order to review the implementation of this Agreement. These meetings shall be held on the proposal of one of the Contracting Parties at a place and at a time agreed upon through diplomatic channels.

Article 12 Other Provisions

1. Either Contracting Party shall, subject to its laws, regulations and administrative practices followed, examine in good faith applications for the entrance and stay of the investors, employees and workers of the other Party who are involved in activities connected with the investments.

2. The Contracting Parties shall not exclude or hinder the transport agencies of the other Contracting Party and in accordance to their laws and regulations, whenever necessary, shall issue permits for the transportation of goods and persons in connection with the investments made.

Article 13 Application

This Agreement shall apply to all investments made by investors of either Contracting Party in the territory of the other, whether existing at or made after the date of its entry into force, but in the case of existing investments it shall apply only with regard to facts occurring after the entry into force of this Agreement.

Article 14 Entry into Force – Duration – Termination

1. Each Contracting Party shall notify the other Contracting Party of the completion of the internal procedures required for bringing this Agreement into force. This Agreement shall enter into force on the date of the latter notification.

2. This Agreement is concluded for a period of 10 years. Its validity shall be extended automatically for an indefinite period of time unless either Contracting Party notifies in writing, at least 6 months prior to its expiry, the other Contracting Party of its wish to terminate the Agreement. After the ten year period of validity each Contracting Party has the right to terminate the Agreement upon a 6 months' written notice to the other.

3. In respect of investments made prior to the date when the termination of this Agreement becomes effective, the provisions of this Agreement remain in force for a further period of 10 years from that date.

Done and signed at Seychelles on 28/5/ 1998, in two originals in the English languages, both texts being equally authentic.

For the Government of the Republic of Cyprus

For the Government of Seychelles