

AGREEMENT
BETWEEN
THE GOVERNMENT OF THE CZECH AND SLOVAK FEDERAL REPUBLIC
AND
THE GOVERNMENT OF THE KINGDOM OF THAILAND
FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Czech and Slovak Federal Republic and the Government of the Kingdom of Thailand (hereinafter called "Contracting Parties"),

CONVINCED that the promotion and protection of investments will be greatly conducive to the stimulation of mutual economic relations, and

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

HAVE agreed as follows:

ARTICLE 1

Definitions

For the purposes of this Agreement:

1. the term "investments" means every asset invented by the investors of one Contracting Party in the territory of the other Contracting Party under the law in force of the latter Contracting Party, especially:

(a) movable and immovable property and any other property rights recognized by the law in force in the territory of the Contracting Party in which the investment is made,

(b) shares, stock and debentures of companies wherever incorporated,

(c) claims to money or to any performance under contract having financial value,

(d) intellectual property rights, know-how and goodwill as recognized by the law of the Contracting Party in which the investment is made,

(e) business concessions conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources;

2. the term "investor" means any natural or juridical person of one Contracting Party who invests in the territory of the other Contracting Party:

(a) the term "natural person" means any natural person having the nationality of either Contracting Party in accordance with its law,

(b) the term "juridical person" means, with respect to either Contracting Party, any entity incorporated or constituted in accordance with, and recognized as juridical person by its law;

3. the term "returns" means the amounts yielded by an investment and, in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and fees;

4. the term "territory" means territory over which the Contracting Party has sovereignty or jurisdiction.

ARTICLE 2

Scope of Application of the Agreement

1. The benefits of this Agreement shall apply only in cases where the investment by the investors of one Contracting Party in the territory of the other Contracting Party has been admitted or otherwise approved in writing, if necessary, by the competent authority in accordance with the law and regulations of the Contracting Party in whose territory the investment is made.

2. The investors of either Contracting Party shall be free to apply for such approval in respect of any investment made after the first of January 1950.

ARTICLE 3

Promotion and Protection of Investment

1. Each Contracting Party shall, having regard to its programmes and policies, encourage and facilitate the investment in its territory by the investors of the other Contracting Party.

2. Investments of the investors of one Contracting Party in the territory of the other Contracting Party shall enjoy the most constant protection and security under the law of the latter Contracting Party.

ARTICLE 4

Investment Treatment

1. (a) Investments made by investors of one Contracting Party in the territory of the other Contracting Party, and the returns therefrom, shall receive treatment which is fair and equitable and not less favourable than that accorded in respect of the investments and returns of the investors of the latter Contracting Party or of any third State.

(b) Each Contracting Party shall in its territory accord to the investors of the other Contracting Party as regards the management, use, enjoyment or disposal of their investments, treatment which is fair and equitable and not less favourable than that which it accords to its own investors or to the investors of any third State.

2. Each Contracting Party shall observe any obligation, additional to those specified in this Agreement, into which it may have entered with regard to investments of the investors of the other Contracting Party.

ARTICLE 5

Exceptions

The provisions of this Agreement relative to the grant of treatment not less favourable than that accorded to investors of either Contracting Party or of any third State

favourable than that accorded to investors of either Contracting Party or of any third State shall not be construed so as to oblige one Contracting Party to extend to investors of the other Contracting Party the benefit of any treatment, preference or privileges which may be extended by the former Contracting Party by virtue of:

(a) the formation or extension of a customs union or a free trade area or a common external tariff area or a monetary union or a regional association for economic cooperation; or

(b) the adoption of an agreement designed to lead to the formation or extension of such a union or area within a reasonable length of time; or

(c) any arrangement with a third country or countries in the same geographical region designed to promote regional cooperation in the economic, social, labour, industrial or monetary fields within the framework of specific projects; or

(d) the grant to a particular investor in Thailand of the status of a "promoted person" under the law of Thailand on the Promotion of investment; or

(e) any international agreement or arrangement, or any domestic legislation, relating wholly or mainly to taxation.

ARTICLE 6

Expropriation

1. In any case where investments made by investors of one Contracting Party are subjected, directly or indirectly, to any measure of expropriation or nationalization, the investors concerned shall be accorded in the territory of the other Contracting Party fair and equitable treatment in relation to any such measure. No such measure shall be taken except for public purposes and against payment of compensation. Such compensation shall be adequate, taking into account, inter alia, the market value, effectively realizable, made without delay and freely transferable, in freely convertible currencies.

2. The legality of any expropriation or nationalization, and the amount and method of payment of compensation shall be subject to review by due process of law.

ARTICLE 7
Compensation for Losses

Where investments made by investors of one Contracting Party in the territory of the other Contracting Party suffer loss owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot in the territory of the other Contracting Party, the investor concerned shall be accorded treatment, as regards restitution, indemnification, compensation or other settlement, in conformity with international law and, in any event, not less favourable than would be accorded in the same circumstances to an investor of the other Contracting Party or to an investor of any third State.

The compensation paid under this Article shall be freely transferable in freely convertible currencies.

ARTICLE 8
Transfers of Investments and Returns

1. Either Contracting Party guarantees to investors of the other Contracting Party free transfer of investments and returns without undue delay in freely convertible currencies, especially:

- (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 or fees;
- (e) proceeds of sale or liquidation of the investment.

2. Transfers referred to in paragraph 1 shall be effected at the market rate of exchange prevailing on the date of the transfer.

ARTICLE 9
Subrogation

1. If either Contracting Party or any agency designated by it makes payment to an investor under a policy of insurance it has entered into in respect of an investment, the said Contracting Party or agency shall be subrogated to any right or title held by the investor.

2. A Contracting Party or any agency thereof which is subrogated to the rights of an investor in accordance with paragraph 1 of this Article, shall be entitled to the same rights as those of the investor in respect of the investment concerned and its related returns. Such rights may be exercised by the Contracting Party or any agency thereof or by the investor if the Contracting Party or any agency thereof so authorizes.

ARTICLE 10
Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall, if possible, be settled through consultation or negotiation.

2. If a dispute between the Contracting Parties can not thus be settled within six months, it shall at the request in writing of either Contracting Party, be submitted to an arbitral tribunal.

3. Such an arbitral tribunal shall be constituted for each individual case as follows:

(a) each Contracting Party shall appoint one member, and these two members shall then select a national of a third State who, on approval by the two Contracting Parties, shall be appointed Chairman of the tribunal;

(b) the said members shall be appointed within three months, and the

Chairman within four months, from the date on which either Contracting Party shall have informed the other Contracting Party that it proposes 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, either Contracting Party may, in the absence of any other relevant agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of either Contracting Party or if he is otherwise prevented from discharging the said function, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a national of either Contracting Party or if he, too, is prevented from discharging the said function, the member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointments,

5. (a) The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be binding on both Parties.

(b) Subject to the power of the arbitral tribunal to give a different ruling concerning costs, the cost of its own member and of its representation in the arbitral proceedings shall be borne by each Contracting Party and the cost of the Chairman and the remaining costs shall be borne in equal parts by the two Contracting Parties.

(c) In all respects other than those specified in subparagraphs (a) and (b) of this paragraph, the arbitral tribunal shall determine its own procedure.

ARTICLE 11

Settlement of Disputes between the Contracting Party and the Investors

In case both contracting Parties are contracting States to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, done at Washington D.C. on March 18, 1965, and failing to settle the disputes amicably, or by any other form of settlement of disputes, each Contracting Party shall consent to submit any legal dispute that may arise out of investments made by an Investor of the other Contracting Party to the International Centre for Settlement of Investment Disputes (ICSID) for arbitration.

Contracting Party to conciliation or arbitration at the request of such an investor in accordance with the provisions of the said Convention.

ARTICLE 12
Entry into force

1. Each Contracting Party shall notify the other Contracting Party in writing of the completion of the constitutional formalities required in its territory for the ontry into force of this Agreement. This Agreement shall enter into force on the date of the latter of the two notifications for an initial period of ten years.

2. This Agreement shall remain in force unless either Contracting Party notifies the other Contracting Party in writing of its intention to terminate it. The notice of termination of this Agreement shall become effective one year after it has been received by the other Contracting Party. In respect of investments or commitments to invest made prior to the date when the notice of termination of this Agreement becomes effective, the provisions of Articles 1 to 11 inclusive of this Agreement shall remain in force for a period of fifteen years.

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

Done in duplicate, at Bangkok, on this sixteenth day of October, in Nineteen hundred and Ninety-first year of the Christian era, in the English language.

FOR THE GOVERNMENT OF
THE CZECH AND SLOVAK FEDERAL REPUBLIC
(H.E. Mr. Václav Klaus)
Deputy Prime Minister Minister of Foreign Affairs