

[TRANSLATION - TRADUCTION]

AGREEMENT BETWEEN THE GOVERNMENT OF THE ARGENTINE REPUBLIC AND THE RUSSIAN FEDERATION FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the Argentine Republic and the Government of the Russian Federation, hereinafter referred to as the "Contracting Parties",

Desiring to create favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party,

Recognizing that the promotion and reciprocal protection of capital investments under this Agreement will contribute to the development of mutually advantageous economic and trade and scientific and technical cooperation,

Have agreed as follows:

ARTICLE 1. Definitions

For the purposes of this Agreement:

1. The term "investor" means with respect to both Contracting Parties:

(a) Any natural person who possesses the nationality of one of the Contracting Parties and is authorized under the law in force in that Contracting Party to make investments in the territory of the other Contracting Party;

(b) Any juridical person constituted under the laws and regulations of one Contracting Party and having its seat and its actual economic activities in the territory of the other Contracting Party.

2. The term "investment" means, in conformity with the law in force in the Contracting Party in whose territory the investment is made, every kind of asset invested by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the latter's law, including:

(a) Movable and immovable property and its corresponding property rights;

(b) Shares and other forms of participation in commercial enterprises and companies;

(c) Title to money and other monetary assets which are directly connected with an investment and are intended to create economic assets;

(d) Exclusive intellectual property rights, including industrial property rights, copyrights, trademarks and service marks, patents, industrial designs, trade names, and technology and know-how;

(e) Rights to engage in economic or commercial activities conferred by law or under contract, including in particular rights relating to prospecting, elaboration, extraction or exploitation of natural resources.

No alteration of the form in which assets are invested or reinvested shall affect the character of the investments, provided that the alteration does not conflict with the law of the Contracting Party in whose territory the investments are made.

3. The term "returns" means the amounts obtained from an investment, as defined in paragraph 2 of this article, including in particular: profits, dividends, interest, income from licences, royalties, and other income.

4. The term "territory" means the territory of the Argentine Republic or the territory of the Russian Federation, including the territorial sea, as well as the exclusive economic zone and the continental shelf over which the Contracting Parties exercise sovereign rights or jurisdiction under international law.

5. The term "law of the Contracting Party" means the domestic law of a Contracting Party in relation to both Contracting Parties.

ARTICLE 2. Promotion and protection of investments

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

2. Each Contracting Party shall ensure, in accordance with its law, full protection of investments made by investors of the other Contracting Party.

ARTICLE 3. Treatment of investments

1. Each Contracting Party shall accord in its territory fair and equitable treatment to investments made by investors of the other Contracting Party and to activities connected with such investments and shall not impede their management, administration, maintenance, use, enjoyment or disposal through discriminatory measures.

2. The treatment referred to in paragraph 1 of this article shall be no less favourable than that accorded to investments and activities connected therewith of its own nationals or of investors of any third State.

3. Most-favoured-nation treatment accorded under paragraph 2 of this article shall not apply to any preferences which either Contracting Party grants or may grant in the future:

- (a) By virtue of its participation in a free trade area or customs or economic union;
- (b) Under the agreements between the Russian Federation and States formerly part of the Union of Soviet Socialist Republics;
- (c) Under the agreements signed by the Argentine Republic with the Republic of Italy (Treaty for the establishment of a special associative relationship of 10 December 1987) and the Kingdom of Spain (of 3 June 1988);
- (d) Under agreements for the avoidance of double taxation or any other taxation agreement.

ARTICLE 4. Essential personnel

1. In conformity with its laws and regulations on the entry and temporary residence of non-nationals a Contracting Party shall permit natural persons who are investors of the other Contracting Party and personnel employed by juridical persons of that Contracting Party to enter and to remain in its territory in order to engage in activities connected with investments.

2. In conformity with its laws and regulations a Contracting Party shall permit investors of the other Contracting Party who have made investments in the territory of the first Contracting Party to employ within its territory technical and administrative personnel of the investor's choice, regardless of the nationality of such personnel.

ARTICLE 5. Accessibility of laws

Each Contracting Party shall ensure the transparency and accessibility of its law on investments made in its territory by investors of the other Contracting Party in order to facilitate its understanding.

ARTICLE 6. Expropriation

1. Neither of the Contracting Parties shall take any measures of nationalization or expropriation or any other measure having the same effect against investments in its territory belonging to investors of the other Contracting Party, unless the measures are taken in the public interest, on a non-discriminatory basis and under due process of law. The measures shall be accompanied by provisions for the payment of prompt, adequate and effective compensation.

2. Such compensation shall amount to the market value of the expropriated investment immediately before the expropriation or before the impending expropriation became public knowledge, shall include interest from the date of expropriation to the date of payment at a normal commercial rate in the territory of the Contracting Party in which the investment was made, shall be paid without delay and shall be effectively realizable and freely transferable.

ARTICLE 7. Compensation for losses

Investors of either Contracting Party who suffer losses on their investments in the territory of the other Contracting Party due to war or other armed conflict, revolt, insurrection, riot or state of national emergency shall be accorded, with respect to restitution, indemnification, compensation or other settlement, a treatment which is no less favourable than that accorded to its own investors or to investors of any third State.

ARTICLE 8. Transfers

1. Each Contracting Party shall grant to investors of the other Contracting Party the unrestricted transfer overseas of all payments connected with investments, once all taxation obligations have been met, and in particular, though not exclusively, of:

- (a) The initial capital and the additional sums necessary for the maintenance and development of the investments;
- (b) Returns as defined in article 1, paragraph 3, of this Agreement;
- (c) Funds in repayment of loans connected with an investment;
- (d) The proceeds from the total or partial sale or liquidation of an investment;
- (e) Compensation provided for in articles 6 and 7 of this Agreement;
- (f) Wages and other remuneration of the nationals and essential personnel of a Contracting Party who are allowed to work in connection with an investment in the territory of the other Contracting Party.

2. Transfers shall be effected without delay in freely convertible currency, at the normal applicable exchange rate at the date of the transfer, in accordance with the procedures established by the Contracting Party in whose territory the investment was made.

ARTICLE 9. Subrogation

A Contracting Party or an agency designated by it which makes a payment to an investor under a guarantee against non-commercial risks in respect of an investment in the territory of the other Contracting Party shall be authorized, by virtue of the subrogation, to exercise the rights of the investor to the same extent as the said investor. Such rights shall be exercised in conformity with the law of the latter Contracting Party.

ARTICLE 10. Settlement of disputes between a Contracting Party and an investor of the other Contracting Party

1. Notice of any dispute arising between one of the Contracting Parties and an investor of the other Contracting Party in connection with investments, including disputes relating to the amount, conditions or procedures for the payment of compensation under articles 6 and 7 of this Agreement or to the procedures for the transfer of payments provided for in article 8 of this Agreement, shall be given in writing and accompanied by the detailed comments of the investor addressed to the Contracting Party involved in the dispute. The parties to the dispute shall try to settle it, to the extent possible, by means of consultations and negotiations.

2. If the dispute cannot be thus settled within six months from the time at which it was notified in writing in accordance with paragraph 1 of this article, it shall be submitted at the investor's choice to either:

- (a) The competent tribunal or arbitration system of the Contracting Party in whose territory the investment was made; or

(b) An ad hoc arbitral tribunal established in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL); or

(c) Any arbitral tribunal of one of the international chambers of trade, provided that both the parties to the dispute so agree.

3. The arbitral decisions shall be final and binding on both parties to the dispute. Each Contracting Party undertakes to execute such decisions in accordance with its law.

ARTICLE 11. Settlement of disputes between the Contracting Parties

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall be settled, to the extent possible, by negotiations through the diplomatic channel.

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

3. The arbitral tribunal shall be constituted for each individual case in the following way: each Contracting Party shall appoint an arbitrator within two months from the date of the notification of the request for arbitration. Within one month from the date of the appointment of the second of them, the two arbitrators shall select a third member, who shall be a national of a third State with which both Contracting Parties maintain diplomatic relations and who shall be chairman of the tribunal. The appointment of the chairman shall be approved by the Contracting Parties.

4. If the time limits for appointment of arbitrators specified in paragraph 3 of this article are not observed, in the absence of any other agreements either Contracting Party may request the President of the International Court of Justice to make the appointments. If the President of the International Court of Justice is a national of one of the Contracting Parties or if for any reason he is prevented from complying with the request, he shall invite the Vice-President of the International Court of Justice to make the necessary appointments. If the Vice-President of the International Court of Justice is a national of one of the Contracting Parties or if he too is prevented from complying with the request, he shall invite the member of the International Court of Justice next in seniority who is not a national of either Contracting Party to make the appointments.

5. The arbitral tribunal shall reach its decision by a majority of votes. This decision shall be final and binding on the Contracting Parties. Each Contracting Party shall bear the costs of the work of its appointed arbitrator and of its representation in the arbitral proceedings. The costs of the work of the chairman and the remaining costs shall be borne in equal parts by the Contracting Parties.

6. The arbitral tribunal shall determine its own rules of procedure independently.

ARTICLE 12. Consultations

The Contracting Parties, at the request of either of them, shall hold consultations on matters connected with the interpretation and application of this Agreement.

ARTICLE 13. Application of the Agreement

This Agreement shall apply to all investments made by investors of one Contracting Party in the territory of the other Contracting Party from 1 January 1987.

The provisions of this Agreement shall apply to matters connected with the disputes referred to in articles 10 and 11 of the Agreement from the day of its entry into force.

ARTICLE 14. Entry into force, amendments, and duration of the Agreement

1. Each Contracting Party shall notify the other Contracting Party in writing of the completion of the procedures required by its law for the entry into force of this Agreement. This Agreement shall enter into force on the date of the second of the two notifications.

2. This Agreement shall remain in force for a period of ten years. Thereafter it shall remain in force until the expiration of twelve months from the date on which either Contracting Party notifies the other in writing of its intention to terminate the Agreement.

3. Amendments may be made to this Agreement by common accord of the Contracting Parties. Any amendment shall enter into force after each Contracting Party has notified the other in writing of the completion of the procedures required by its law for the entry into force of such amendments.

4. With regard to investments made before the date of the expiry of this Agreement which are covered by it, the provisions of articles 1 to 13 shall remain in force for an additional period of ten years from that expiry date.

DONE at Moscow on 25 June 1998 in duplicate in the Spanish and Russian languages, both texts being equally authentic.

For the Government of the Argentine Republic:

[ANDRÉS CISNEROS]

For the Government of the Russian Federation:

[IVÁN MATEROV]

PROTOCOL

At the time of the signing of the Agreement between the Government of the Argentine Republic and the Government of the Russian Federation for the promotion and reciprocal protection of investments (hereinafter referred to as "the Agreement") the undersigned agreed on the following provisions, which are an integral part of the Agreement:

1. With reference to article 1, paragraph 1 (a):

The provisions of the Agreement shall not apply to investments made by natural persons who are nationals of the Russian Federation in the territory of the Argentine Republic if such persons, at the date of the investment, have been domiciled for a period of more than two years in the territory of the Argentine Republic, provided that it is proved that the investment was admitted to its territory from overseas.

2. With reference to article 3:

The Russian Federation reserves the right to determine the spheres of activity and the sectors of the economy in which the activities of foreign investors are excluded or restricted.

DONE at Moscow on 25 June 1998 in duplicate in the Spanish and Russian languages, both texts being equally authentic.

For the Government of the Argentine Republic:

[ANDRÉS CISNEROS]

For the Government of the Russian Federation:

[IVÁN MATEROV]