

No. 26131

**FRANCE
and
HUNGARY**

**Agreement on the reciprocal promotion and protection of
investments. Signed at Paris on 6 November 1986**

Authentic texts: French and Hungarian.

Registered by France on 1 September 1988.

**FRANCE
et
HONGRIE**

**Accord sur l'encouragement et la protection réciproques des
investissements. Signé à Paris le 6 novembre 1986**

Textes authentiques : français et hongrois.

Enregistré par la France le 1^{er} septembre 1988.

[TRANSLATION — TRADUCTION]

**AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FRENCH
REPUBLIC AND THE GOVERNMENT OF THE PEOPLE'S
REPUBLIC OF HUNGARY CONCERNING THE RECIPROCAL
PROMOTION AND PROTECTION OF INVESTMENTS**

The Government of the French Republic and the Government of the People's Republic of Hungary, hereinafter referred to as "the Contracting Parties",

Desiring to strengthen their economic cooperation by creating favourable conditions for French investments in Hungary and Hungarian investments in France,

Convinced that the promotion and protection of such investments are likely to stimulate transfers of capital and technology between the two countries in the interest of their economic development,

Have agreed on the following provisions:

Article 1. For the purposes of this Agreement:

1. The term "investment" shall apply to assets such as property, rights and interests of any category, related to economic activity in any sector whatever, established after 31 December 1972, in accordance with the legislation of the Contracting Party in whose territory or maritime zones the investment was made, and particularly but not exclusively, to:

- (a) Movable and immovable property and all other real rights (such as mortgages, preferences, usufructs, sureties and similar rights);
- (b) Shares and other forms of participation, albeit minority or indirect, in companies constituted in the territory of either Party;
- (c) Bonds, claims and rights to any benefit having an economic value;
- (d) Copyrights, industrial property rights (such as patents, licences, registered trade marks, industrial models), technical processes, registered trade names and good will;
- (e) Concessions accorded by law or by virtue of a contract, including concessions for prospecting, cultivating, mining or developing natural resources, including those situated in the maritime zones of the Contracting Parties.

Any change in the form in which assets are invested shall not affect their status as an investment, provided that the change is not contrary to the legislation of the Contracting Party in whose territory or maritime zones the investment is made.

2. The term "investor" shall apply to:

- (a) Any individual having the nationality of either Contracting Party;
- (b) Any body corporate constituted in the territory of either Contracting Party in accordance with its legislation and having its registered office there, or

¹ Came into force on 30 September 1987, the date proposed by the Government of Hungary in the exchange of letters by which the Contracting Parties notified each other of the completion of the required constitutional procedures.

controlled, directly or indirectly, by nationals of one Contracting Party, or by bodies corporate having their registered office in the territory of one Contracting Party and constituted in accordance with that Party's legislation.

The nationality of a company controlled directly or indirectly by nationals of one Contracting Party, or by bodies corporate having their registered office in the territory of one Contracting Party and constituted in accordance with its legislation shall be recognized by the Contracting Party in whose territory or maritime zones the investment is made, before the actual investment.

In the event of disagreement over the nationality of the company concerned, consultations shall be held between the two Contracting Parties in order to reach a mutually satisfactory agreement.

3. The term "income" shall mean all the amounts yielded by an investment, such as profits, royalties or interest, during a given period. Income from investment and, in the event of reinvestment, income from its reinvestment shall enjoy the same protection as the investment itself.

4. The term "maritime zones" shall mean those maritime and sub-maritime zones over which the Contracting Parties exercise sovereignty, sovereign rights or jurisdiction, in accordance with international law.

Article 2. Each Contracting Party shall permit and promote, in accordance with its legislation and with the provisions of this Agreement, investments made in its territory and maritime zones by nationals and companies of the other Party.

Article 3. Each Contracting Party shall undertake to accord, in its territory and maritime zones, to investments made by investors of the other Contracting Party, just and equitable treatment, excluding any unjustified or discriminatory measure which might impede their management, maintenance, use, enjoyment or liquidation.

Article 4. 1. Each Contracting Party shall accord in its territory and maritime zones, to investors of the other Party, in respect of their investments and activities in connection with such investments, the same treatment accorded to its own investors or the treatment accorded to investors of the most-favoured nation, if the latter is more advantageous.

2. Investors authorized to work in the territory and maritime zones of either Contracting Party shall be entitled to enjoy the appropriate facilities for the exercise of their professional activities. Each Contracting Party shall consider favourably, under its domestic legislation, applications made by nationals of the other Contracting Party for entry, stay, work and travel in connection with an investment in the territory or maritime zones of a Contracting Party.

3. Such treatment shall not, however, include privileges which may be extended by a Contracting Party to investors of a third State by virtue of its participation in or association with a free trade area, customs union, common market or any other form of regional economic organization.

4. This Agreement shall not extend to privileges accorded by one of the Contracting Parties to any third State, by virtue of a convention for the avoidance of double taxation or any other convention on taxation.

Article 5. 1. Investments made by investors of one Contracting Party shall be fully and completely protected and safeguarded in the territory and maritime zones of the other Contracting Party.

2. The Contracting Parties shall not take any expropriation or nationalization measures or any other measures which could cause the investors of the other Party to be dispossessed, directly or indirectly, of the investments belonging to them in its territory and maritime zones, except for reasons of public necessity and on condition that these measures are not discriminatory or contrary to a specific undertaking.

Any dispossession measures taken shall give rise to the payment of prompt and adequate compensation, the amount of which must equal the real value of the investments concerned on the day prior to the date on which the measures are taken or made public.

Such compensation shall be payable to investors in convertible funds, and shall be freely transferable. It shall be paid promptly starting from the date of dispossession, failing which, interest calculated at the applicable market rate shall be charged up to the date of payment.

3. Investors of either Contracting Party, whose investments have suffered losses as a result of a war or any other armed conflict, state of national emergency or uprising in the territory or maritime zones of the other Contracting Party, shall be accorded by the latter Party treatment no less favourable than that accorded to its own investors or to investors of the most favoured nation. They shall, in any event, receive adequate compensation.

Article 6. A Contracting Party in whose territory or maritime zones investments have been made by investors of the other Contracting Party shall accord to the said investors freedom of transfer of:

- (a) Interest, dividends, profits and other current income;
- (b) Royalties deriving from the intangible property listed in article 1, subparagraphs 1 (d) and (e);
- (c) Payments made towards the repayment of duly contracted loans;
- (d) Proceeds of the transfer or complete or partial liquidation of the investment, including appreciation in the invested capital;
- (e) The compensation for dispossession or loss provided for in article 5, paragraphs 2 and 3 above.

Nationals of each Contracting Party who have been authorized to work in the territory or maritime zones of the other Contracting Party in connection with an approved investment shall also be authorized to transfer to their country of origin an appropriate portion of their remuneration, to be determined in accordance with the legislation of the latter Party.

The transfers referred to in the preceding paragraphs shall be carried out without delay at the regular official rate of exchange applicable on the date of transfer.

Article 7. When the regulations of one Contracting Party provide for guaranteeing external investments, a guarantee may be granted, on the basis of a case-by-case review, for investments made by investors of that Party in the territory or maritime zones of the other Party.

Article 8. If one Contracting Party, pursuant to a guarantee given for an investment in the territory or maritime zones of the other Party, makes payments

to one of its investors, it shall thereby be subrogated to the rights and shares of that investor.

Such payments shall not affect the rights of the recipient of the guarantee to have recourse to the relevant courts or arbitration or to pursue actions introduced before them until the outcome of the proceedings.

Article 9. 1. Any dispute relating to investments between one Contracting Party and an investor of the other Contracting Party shall, as far as possible, be settled amicably between the two Parties concerned or, failing that, by recourse to domestic means.

2. However, disputes concerning dispossession measures as provided for in article 5, paragraph 2, particularly those relating to compensation, its amount, conditions of payment and interest to be paid in the case of delayed payment, shall be settled under the following conditions:

If any such dispute cannot be settled amicably within six months from the time when a claim is made by one of the parties to the dispute, it shall, at the request of either Party, be submitted for arbitration. The decision shall be binding, in accordance with the arbitration rules of the United Nations Commission on International Trade Law, as adopted by the United Nations General Assembly in its resolution 31/98 of 15 December 1976.¹

When each Contracting Party shall have become party to the Convention on the Settlement of Investment Disputes between States and Nationals of other States, signed at Washington on 18 March 1965,² if any such dispute cannot be amicably settled within six months from the time when a claim is made by one of the parties to the dispute, it shall be submitted for arbitration to the International Centre for Settlement of Investment Disputes.

3. The arbitral tribunal shall rule in accordance with the provisions of this Agreement and the rules and principles of international law.

Article 10. Investments which have been the subject of a specific undertaking by one Contracting Party *vis-à-vis* investors of the other Contracting Party shall be governed, without prejudice to the dispositions of this Agreement, by the terms of that undertaking, in so far as its provisions are more favourable than those laid down by this Agreement.

Article 11. 1. Disputes concerning the interpretation or application of this Agreement shall, as far as possible, be settled through the diplomatic channel.

2. If a dispute cannot be settled within six months from the time when a claim is made by one of the Contracting Parties, it shall be submitted, at the request of either Contracting Party, to an arbitral tribunal.

3. The said tribunal shall, in each separate case, be constituted as follows:

Each Contracting Party shall designate one member, and the two said members shall, by agreement, designate a national of a third State, who shall be appointed chairman by the two Contracting Parties. The members of the tribunal shall be appointed within two months and the chairman within four months from

¹ United Nations, *Official Records of the General Assembly, Thirty-first Session, Supplement No. 39 (A/31/39)*, p. 182.

² United Nations, *Treaty Series*, vol. 575, p. 159.

the date on which one Contracting Party notifies the other Contracting Party of its intention to submit the dispute to arbitration.

4. If the time limits established in paragraph 3 are not observed, one Contracting Party shall, in the absence of any applicable agreement, invite the Secretary-General of the United Nations to make the necessary appointments. If the Secretary-General is a national of either Contracting Party or if, for any other reason, he is prevented from exercising that function, the Under-Secretary-General next in seniority shall, provided that he is not a national of either Contracting Party, make the necessary appointments.

5. The arbitral tribunal shall rule in accordance with the provisions of this Agreement and the rules and principles of international law.

6. The arbitral tribunal shall take its decisions by majority vote. Such decisions shall be final and binding on the Contracting Parties.

The tribunal shall adopt its own rules of procedure. It shall interpret its judgement at the request of either Contracting Party. Unless the tribunal decides otherwise, taking particular circumstances into consideration, legal costs, including leave for the arbitrators, shall be divided equally between the two Governments.

Article 12. 1. This Agreement shall enter into force one month after the date on which the Contracting Parties have notified each other of completion of the required constitutional procedures in their respective countries. It shall remain in force for a period of 10 years and shall be renewed for successive 10-year periods, unless one of the Contracting Parties denounces it through the diplomatic channel, by notification at least one year before expiration of the current period of validity.

2. Investments made before the expiration of this Agreement shall remain subject to it for a period of 20 years from the date of the said expiration.

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

DONE at Paris, on 6 November 1986 in two original copies in the French and Hungarian languages, both texts being equally authentic.

For the Government
of the French Republic:

[Signed]

ALAIN JUPPÉ

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

[Signed]

Dr. PETER MEDGYESSY