e) concesiunile de drept public.

2. Termenul „investitor" desemnează:

a) în ceea ce priveşte Regatul Belgiei şi Marele Ducat de Luxemburg: persoanele fizice care, potrivit legislaţiei belgiene sau luxemburgheze, sînt considerate cetăţeni ai Statului belgian sau ai Statului luxemburghez, precum şi orice persoană juridică şi orice firmă comercială, avîndu-şi sediul pe teritoriul Regatului Belgiei sau Marelui Ducat de Luxemburg şi constituite valabil potrivit legislaţiei belgiene sau luxemburgheze;

b) în ceea ce priveşte Republica Socialistă România: unităţi economice române avînd personalitate juridică şi care, în conformitate cu legislaţia română, au atribuţii de comerţ exterior şi de cooperare economică cu străinătatea.

ARTICOLUL 3

1. Investiţiile efectuate de investitori ai uneia din Părţile Contractante pe teritoriul celeilalte Părţi Contractante nu vor putea fi expropriate sau supuse altor măsuri avînd un efect similar decît dacă sînt îndeplinite următoarele condiţii:

a) măsurile sînt adoptate în interesul public şi printr-o procedură legală potrivită;

b) ele nu sînt discriminatorii în raport de măsurile luate faţă de investiţiile şi investitorii ţărilor terţe;

c) este prevăzută o procedură adecvată pentru stabilirea sumei şi modului de plată a despăgubirii. Suma despăgubirii va trebui să corespundă valorii investiţiei la data măsurilor de expropriere sau a măsurilor similare.
Această sumă va fi efectiv plătită beneficiarului, liber transferată şi vărsată fără întîrziere.

2. La cererea părţii interesate, suma despăgubirii va putea fi reevaluată de către un tribunal competent din ţara unde a fost efectuată investiţia.

3. Dacă subzistă un diferend între un investitor al unei Părţi Contractante şi cealaltă Parte Contractantă privitor la suma despăgubirii, după ce au fost epuizate căile de solutionare oferite de legislaţia Părţii Contractante pe teritoriul căreia a fost realizată investiţia, Părţile Contractante recunosc fiecărei părţi la diferend dreptul de a angaja în faţa Centrului Internaţional pentru Reglementarea Diferendelor relative la Investiţii, conform Convenţiei privind reglementarea diferendelor relative la investiţii între State şi cetăţeni ai altor State, deschisă pentru semnare la Washington la 18 martie 1965, procedura prevăzută de numita Convenţie, în vederea reglementării acestui diferend prin conciliere sau arbitraj; în acest scop fiecare Parte Contractantă îşi dă consimţământul prin prezentul Acord.

4. Totuşi condiţia menţionată în paragraful 3 al prezentului articol, relativă la epuizarea căilor de soluţionare oferite de legislaţia Părţii Contractante pe teritoriul căreia a fost realizată investiţia, nu va putea fi opusă de această Parte investitorului celeilalte Părţi, după un termen de doi ani decurgînd cu începere de la data primului act de procedură juridică în vederea reglementării acestui diferend de către tribunale.

5. Fiecare din Părţile Contractante se angajează să execute hotărîrea care va fi dată de Centrul Internaţional pentru Reglementarea Diferendelor relative la Investiţii.

ARTICOLUL 4

1. Fiecare din Părţile Contractante garantează investitorilor celeilalte Părţi Contractante, conform legilor şi reglementărilor naţionale în vigoare, liberul transfer, în deviza utilizată pentru realizarea investiţiei sau într-o altă deviză convertibilă convenită:

- a capitalului investit sau a produsului net al lichidării sau înstrăinării, totale sau parţiale, a investiţiei;

- a veniturilor nete, ca beneficii, dividende sau dobînzi, raportate de capitalul investit;

- a produsului net al muncii cetăţenilor autorizaţi să exercite o activitate privind investiţia, pe teritoriul celeilalte Părţi Contractante.

2. Fiecare din Părţile Contractante va acorda autorizaţiile necesare pentru a asigura fără întîrziere executarea acestor transferuri.

3. Transferurile vor fi executate la cursurile de schimb oficiale care sînt aplicabile la data acestor transferuri.

ARTICOLUL 5

Dacă una din Părţile Contractante, în virtutea unei garanţii date pentru o investiţie realizată pe teritoriul celeilalte Părţi Contractante, efectuează vărsăminte propriilor săi investitori, ea este, prin aceasta, subrogată în drepturile, obligaţiile şi acţiunile numiţilor investitori.

Aceasta subrogare se extinde de asemenea asupra dreptului de transfer menţionat în articolul 4 de mai sus.

Ea va fi subordonată plăţii impozitelor şi taxelor care incumbă în mod legal investitorului şi îndeplinirii tuturor angajamentelor aflate în vigoare, prevăzute în documentele de admitere a investiţiei.

ARTICOLUL 6

1. Diferendele care survin între Părţile Contractante cu privire la interpretarea şi aplicarea prezentului Acord sînt reglementate, pe cît posibil, prin tratative între cele două Părţi. Dacă un astfel de diferend nu poate fi reglementat într-un termen de şase luni după data începerii tratativelor, el va fi supus - la cererea uneia din Părţile Contractante - unui tribunal arbitral.

2. Tribunalul arbitral este constituit astfel: fiecare Parte Contractantă desemnează un arbitru; cei doi arbitri propun, de comun acord, celor două Părţi, un preşedinte care trebu-

ie să fie cetățean al unui Stat tert, desemnat de către cele două Părți Contractante. Arbitrii sînt numiți în termen de trei luni și președintele în termen de cinci luni, după ce una din Părțile Contractante a notificat celeilalte Părți Contractante că dorește să supună diferendul unui tribunal arbitral. Dacă arbitrii nu sînt numiți în termenul convenit, Partea Contractantă care nu și-a numit arbitrul este de acord ca acesta să fie numit de către Secretarul General al Națiunilor Unite. Dacă cele două Părți nu pot să se pună de acord asupra numirii președintelui, ele sînt de asemenea de acord ca acesta să fie numit de Secretarul General al Națiunilor Unite.

3. Tribunalul arbitral își adoptă deciziile pe baza dispozițiilor prezentului Acord și altor Acorduri similare, încheiate de Părțile Contractante, ca și pe baza principiilor și normelor dreptului internațional public. Tribunalul arbitral își ia hotărîrile prin majoritate de voturi și hotărîrea sa este definitivă și obligatorie. Singure cele două Părți Contractante pot supune diferende tribunalului arbitral și participa la dezbateri.

4. Fiecare Parte Contractantă suportă cheltuielile privind arbitrul desemnat precum și cheltuielile privind reprezentanții săi înaintea tribunalului. Cheltuielile privind președintele și celelalte cheltuieli vor fi suportate în părți egale de Părțile Contractante.

5. Tribunalul arbitral își fixează propria sa procedură.

ARTICOLUL 7

1. Pentru aplicarea prezentului Acord, fiecare din Părțile Contractante va rezerva, pe teritoriul său, investițiilor și investitorilor celeilalte Părți Contractante, un tratament nu mai puțin favorabil decît cel pe care îl rezervă investițiilor și investitorilor din terțe țări.

2. Dacă o problemă privind investițiile este reglementată în același timp, pe de o parte de către prezentul Acord și, pe de altă parte, de către un Acord internațional sau de reglementări naționale ale uneia din Părțile Contractante, investitorii fiecăreia din Părțile Contractante pot să se prevaleze de dispozițiile în materie care le sînt cele mai favorabile.

ARTICOLUL 8

1. Prezentul Acord va fi aprobat sau ratificat conform dispozițiilor constituționale în vigoare în fiecare Stat.

2. Acordul va intra în vigoare o lună după schimbul notelor constatînd îndeplinirea formalităților constituționale cerute în vederea intrării sale în vigoare.

3. El este încheiat pentru o durată inițială de zece ani și va rămîne în vigoare după acest termen, afară de cazul cînd una din cele două Părți Contractante îl denunță pe cale diplomatică cu preaviz de un an.

4. In caz de denunțare, prezentul Acord va rămîne aplicabil investițiilor efectuate în timpul validității sale pentru o perioadă de 15 ani.

Semnat la 8 Mai 1978 la BRUXELLES în două exemplare originale, fiecare în limbile franceză, neerlandeză și română, cele trei texte avînd aceeași autoritate.

Pentru Uniunea Economică Belgo-Luxemburgheza:

H. DE BRUYNE

Pentru Republică Socialistă România:

A. LAZAREANU

[TRANSLATION — TRADUCTION]

AGREEMENT[1] BETWEEN THE BELGO-LUXEMBOURG ECONOMIC UNION AND THE SOCIALIST REPUBLIC OF ROMANIA CONCERNING THE RECIPROCAL PROMOTION, PROTECTION AND GUARANTEEING OF INVESTMENTS

The Government of the Kingdom of Belgium, acting in its own name and on behalf of the Grand Duchy of Luxembourg, under the Convention establishing the Belgo-Luxembourg Economic Union,[2] and

The Government of the Socialist Republic of Romania,

Desirous of furthering economic cooperation between the Contracting States,

Seeking to create favourable conditions for investments by investors of one State in the territory of the other State,

Aware that the signing of an agreement concerning the reciprocal promotion, protection and guaranteeing of investments could be conducive to these goals,

Considering, moreover, the potentially beneficial effect of such an agreement on improving business relations and confidence in the area of investments,

Attaching particular importance to the implementation of the Final Act of the Helsinki Conference on Security and Cooperation in Europe[3] regarding economic, industrial and technical cooperation,

Have agreed as follows:

Article 1

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

2. All investments belonging to investors of either Contracting Party shall, in the territory of the other Contracting Party, enjoy fair and equitable treatment.

Each Contracting Party shall undertake to ensure that, as regards investments, the exercise of the rights recognized under this Agreement shall not be impeded by measures adopted by the authorities which are restrictive or discriminatory compared with those applied to other foreign investors.

3. The treatment provided for under paragraphs 1 and 2 of this article shall be no less favourable than that enjoyed by the investments and investors of third States.

The treatment shall not, however, extend to privileges that a Contracting Party accords to investors of a third State by virtue of its participation in or association with an economic union, customs union, common market, free trade area or regional economic organization of an international character.

[1] Came into force on 1 May 1980 by notification, in accordance with article 8.
[2] United Nations, *Treaty Series*, vol. 547, p. 39.
[3] *International Legal Materials*, vol. XIV (1975), p. 1292 (American Society of International Law).

Article 2

For the purposes of this Agreement:

1. The term "investments" shall mean any input of capital, or any other kinds of assets, for the attainment of an economic goal, consisting of goods, rights and interests invested in companies by participants in the investment.

The following, in particular, though not exclusively, shall be considered "investments":

(*a*) Movable and immovable property, as well as any other rights *in rem*;

(*b*) Shares and other kinds of interest in companies;

(*c*) Title to money and to any performance having economic value;

(*d*) Brand marks or trade marks, patents, technical processes, trade names and any other industrial property right, as well as goodwill;

(*e*) Business concessions conferred by law.

2. The term "investor" shall mean:

(*a*) In respect of the Socialist Republic of Romania: Romanian economic entities possessing legal personality which, in accordance with Romanian law, engage in foreign trade and foreign economic cooperation;

(*b*) In respect of the Kingdom of Belgium and the Grand Duchy of Luxembourg: individuals considered under Belgian or Luxembourg law to be nationals of the Belgian State or Luxembourg State, as well as any corporation or commercial firm having its head office in the territory of the Kingdom of Belgium or the Grand Duchy of Luxembourg, which has been properly constituted under Belgian or Luxembourg law.

Article 3

1. Investments made by the investors of either Contracting Party in the territory of the other Contracting Party shall not be expropriated or subjected to other measures having a similar effect unless the following conditions are fulfilled:

(*a*) The measures are adopted in the public interest and in accordance with an appropriate legal procedure;

(*b*) They are not discriminatory compared with measures taken in relation to investments and investors of third States;

(*c*) An appropriate procedure is provided for determining the amount and method of payment of compensation.

The amount of compensation shall correspond to the value of the investment on the date of the measures of expropriation or similar measures.

That amount shall be effectively provided to the interested party, transferred freely and paid without delay.

2. At the request of the interested party, the amount of compensation may be reviewed by a competent tribunal of the country in which the investment was made.

3. If a dispute arises between an investor of one Contracting Party and the other Contracting Party regarding the amount of compensation, and after the judicial remedies available under the legislation of the Contracting Party in whose territory

the investment was made have been exhausted, the Contracting Parties shall recognize the right of each party to the dispute to apply to the International Centre for Settlement of Investment Disputes, established by the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature at Washington on 18 March 1965,[1] for settlement of the dispute by conciliation or arbitration according to the procedure provided for under the said Convention; for that purpose, each Contracting Party shall give its consent by means of this Agreement.

4. However, the condition referred to in paragraph 3 of this article concerning the exhaustion of judicial remedies available under the legislation of the Contracting Party in whose territory the investment was made cannot be invoked by that Party against the investor of the other Party more than two years after the date of initiation of judicial process for settlement of the dispute by the courts.

5. Each Contracting Party shall undertake to enforce the decision handed down by the International Centre for Settlement of Investment Disputes.

Article 4

1. Each Contracting Party shall guarantee to investors of the other Contracting Party, in accordance with national laws and regulations in force, the free transfer in the currency used to make the investment, or in another agreed convertible currency, of:

— The capital invested or net proceeds of the total or partial liquidation or disposal of the investment;

— Net income, such as profits, dividends or interest, resulting from the invested capital;

— The net proceeds of the work of citizens authorized to engage in an activity relating to the investment in the territory of the other Contracting Party.

2. Each Contracting Party shall provide the necessary authorizations to ensure that such transfers are effected without delay.

3. The transfers shall be effected at the official rates of exchange applicable on the date on which such transfers take place.

Article 5

If either Contracting Party makes payment to its own investors under a guarantee it has given for an investment made in the territory of the other Contracting Party, that Party shall *ipso facto* be subrogated with regard to the rights, obligations and actions of the aforementioned investors.

This subrogation shall also extend to the right of transfer referred to in article 4 above.

It shall be subject to the payment of the duties and taxes legally incumbent on the investor and to the performance of all commitments still in effect and envisaged in the documents admitting the investment.

[1] United Nations, *Treaty Series*, vol. 575, p. 159.

Article 6

1. Disputes arising between the Contracting Parties regarding the interpretation or implementation of this Agreement shall, as far as possible, be settled through negotiation between the two Parties. If the dispute cannot be settled within six months after the start of the negotiations, it shall — at the request of either Contracting Party — be submitted to an arbitral tribunal.

2. The arbitral tribunal shall be constituted as follows. Each Contracting Party shall appoint an arbitrator; the two arbitrators shall jointly agree to propose to the two Parties a chairman who shall be a national of a third State designated by the two Contracting Parties. The arbitrators shall be appointed within three months and the chairman within five months after either Contracting Party notifies the other Contracting Party of its intention to submit the dispute to arbitration. If the arbitrators are not appointed within the agreed period, the Contracting Party which has yet to appoint its arbitrator shall agree to the arbitrator being appointed by the Secretary-General of the United Nations. If the two Parties cannot agree on the appointment of a chairman, they shall also agree to the chairman being appointed by the Secretary-General of the United Nations.

3. The arbitral tribunal shall base its decisions on the provisions of this Agreement and of other similar agreements concluded by the Contracting Parties, as well as on the principles and rules of international law. The arbitral tribunal shall reach its decisions by a majority vote and its decision shall be final and binding. Only the two Contracting Parties may submit disputes to the arbitral tribunal and participate in the proceedings.

4. Each Contracting Party shall bear the costs associated with its appointed arbitrator, as well as costs associated with its representation before the tribunal. The costs of the chairman and other costs shall be borne equally by the Contracting Parties.

5. The arbitral tribunal shall decide its own procedure.

Article 7

1. In implementing this Agreement, each Contracting Party shall, in its territory, accord to investments or investors of the other Contracting Party a treatment no less favourable than that accorded to investments and investors of a third country.

2. When a question relating to investments is governed by this Agreement, on the one hand, and also by an international agreement or by national regulations of either Contracting Party, on the other hand, the investors of each Contracting Party may invoke the provisions which are most favourable to them.

Article 8

1. This Agreement shall be approved or ratified in accordance with the constitutional procedures in force in each State.

2. The Agreement shall enter into force one month after the exchange of notifications of completion of the required constitutional formalities for entry into force.

3. The Agreement shall be concluded for an initial period of ten years and shall remain in force subsequent to that period unless one of the two Contracting Parties terminates it through the diplomatic channel by giving one year's notice.

4. If terminated, this Agreement shall continue to be applicable to investments made while it was in force, for a period of 15 years.

DONE in Brussels on 8 May 1978, in two original copies, in the French, Dutch and Romanian languages, all texts being equally authentic.

For the Belgo-Luxembourg Economic Union:

H. DE BRUYNE

For the Socialist Republic of Romania:

A. LAZAREANU

No. 33359

BELGO-LUXEMBOURG ECONOMIC UNION
and
SRI LANKA

Agreement for the promotion and protection of investments (with exchange of letters). Signed at Brussels on 5 April 1982

Authentic text: English.

Registered by the Belgo-Luxembourg Economic Union on 13 November 1996.

UNION ÉCONOMIQUE BELGO-LUXEMBOURGEOISE
et
SRI LANKA

Accord concernant l'encouragement et la protection des investissements (avec échange de lettres). Signé à Bruxelles le 5 avril 1982

Texte authentique : anglais.

Enregistré par l'Union économique belgo-luxembourgeoise le 13 novembre 1996.

AGREEMENT[1] BETWEEN THE BELGO-LUXEMBURG ECONOMIC UNION AND THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

THE GOVERNMENT OF THE KINGDOM OF BELGIUM

and

THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

Acting in its own name and on behalf of the Government of the Grand-Duchy of Luxemburg, under the Convention establishing the Belgo-Luxemburg Economic Union :[2]

Desiring to create favourable conditions for greater economic co-operation between them and in particular for investments by nationals of one State in the territory of the other State;

Recognizing the need to protect investments by nationals and companies of both States and to stimulate the flow of capital with a view to the economic prosperity of both States :

Have agreed as follows :

Article 1

Definitions

For the purpose of this Agreement :

(1) The term « investments » mean every kind of asset and in particular, though not exclusively, includes :

(a) movable and immovable property and any other property rights such as morgages, liens or pledges;

(b) stocks of companies, shares and other types of holding in companies;

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

(d) copyrights, industrial property rights (such as patents for inventions, trademarks, industrial designs), know-how, tradenames and goodwill;

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

Any modifications in the form in which assets are invested shall not affect their classification as an investment within the meaning of the present Agreement, provided that such modification is not contrary to the legislation of the State in the territory of which the investment is made and to the approval granted for the initial investment.

(2) The term « returns » means the amounts yielded by an investment and in particular, though not exclusively, includes profits, interests, capital gains, dividends, royalties or fees.

(3) The term « nationals » means :

(a) in respect of the Belgo-Luxemburg Economic Union, any physical person who, according to the laws of Belgium or Luxemburg, is a citizen of Belgium or Luxemburg;

(b) in respect of Sri Lanka, any person who is a citizen of Sri Lanka according to its laws.

[1] Came into force on 26 April 1984 by the exchange of the instruments of ratification, in accordance with article 14.
[2] United Nations, *Treaty Series*, vol. 547, p. 39.

(4) The term « companies » means :

(a) in respect of the Belgo-Luxemburg Economic Union, any juridical person lawfully constituted in accordance with the legislation of Belgium or Luxemburg and having its seat in the territory of Belgium or Luxemburg;

(b) in respect of the Republic of Sri Lanka, corporations, firms or associations incorporated or constituted under the law in force in any part of the Republic of Sri Lanka.

(5) The term « territory » means :

(i) in respect of Sri Lanka the territory which constitutes the Republic of Sri Lanka.

(ii) in respect of Belgium or Luxemburg the territory which constitutes the Kingdom of Belgium or the Grand-Duchy of Luxemburg respectively.

Article 2

Applicability of this Agreement

(1) This Agreement shall only apply :

(a) in respect of investments in the territory of Sri Lanka, to all investments made by nationals and companies of Belgium or Luxemburg which are specifically approved in writing by the Government of Sri Lanka or by any of its designated Agencies, and upon such conditions, if any, as shall be deemed fit.

(b) in respect of investments in the territory of Belgium or Luxemburg to all investments, made by nationals or companies of Sri Lanka which are invested under the relevant laws and regulations of Belgium or Luxemburg respectively.

(2) The provisions of the foregoing paragraph shall apply to all investments made by nationals and companies of either Contracting Party after the coming into force of this Agreement.

(3) In respect of investments in the territory of Sri Lanka, the provisions of paragraph (1) shall apply to all investments made under the Greater Colombo Economic Commission Law No. 4 of 1978, whether made before or after the coming into force of the Agreement.

Article 3

Promotion of investments

Each Contracting Party shall encourage and create favourable conditions for nationals and companies of the other Contracting Party to make in its territory investments that are in line with its general economic policy, subject to its rights to exercice powers conferred by its laws and regulations.

Article 4

Protection of investments

1. Investments of nationals or companies of either Contracting Party shall at all times be accorded fair and equitable treatment in the territory of the other Contracting Party.

2. Such investments of either Contracting Party shall enjoy full protection and security in the territory of the other Contracting Party. Neither Contracting Party shall in anyway impair by unjustifiable or discriminatory measures the management, maintenance, use, enjoyment, disposal or liquidation of investments, in its territory, of nationals or companies of the other Contracting Party.

3. The treatment and protection guaranteed by paragraphs 1 and 2 of this Article shall at least be equal to that enjoyed by nationals or companies of any third State.

Article 5

Exportation

1. Neither of the parties shall take measures of expropriation, nationalisation or dispossession, or any other measures having effect equivalent to expropriation, nationalisation or dispossession, against investments belonging to nationals or companies of the other Contracting Party, unless such measures are taken in the public interest, on a non-discriminatory basis, and under due process of law, and provided that provision be made for prompt, effective and adequate compensation.

2. The compensation referred to in paragraph (1) of this Article shall, unless the party adversely affected proves otherwise, represent the market value of the investments on the day before the date on which such measures were taken or, should the case arise, on the day before the date on which the impending measure became public knowledge. The compensation shall be paid in any convertible currency. Such compensation shall be paid without undue delay and shall include interest at a normal commercial rate until the date of payment.

3. Each Contracting Party shall, in every case, accord to the investors of the other Contracting Party a treatment no less favourable than that enjoyed by the nationals of any third State.

4. Where a Contracting Party expropriates the assets of a company which is incorporated or constituted under the law in force in any part of its own territory, and in which nationals or companies of the other Contracting Party own shares, it shall ensure that the provisions of paragraphs (1), (2) and (3) of this Article are applied to the extent necessary to guarantee prompt, adequate and effective compensation in respect of their investment to such nationals or companies of the other Contracting Party who are owners of those shares.

Article 6

Free transfer

(1) As regards the investments made in its territory, each Contracting Party shall, agree subject to its rights, in the event of balance of payment difficulties, to exer-cise temporarily, equitably and in good faith powers conferred by its laws are regulations, and guarantee free transfer of their assets and in particular though not exclusively;

(a) returns from investments, including profits, interests, capital gains, dividends, royalties or fees;

(b) instalments in repayment of loans which are regularly contracted;

(c) proceeds from assignments, full or partial liquidation of any approved investment;

(d) compensation paid under Article 5.

(2) Each Contracting Party shall issue the authorizations required to ensure that the transfer can be effected without undue delay and any fees or charges other than the usual bank charges.

(3) The treatment referred to in paragraphs (1) and (2) of this Article may not be less favourable than that accorded to the nationals of a third State who are in a similar situation.

Article 7

Exchange rates

The transfers referred to in Articles 5 and 6 of this Agreement shall be effected at the official rate of exchange prevailing on the date of transfer.

Article 8

Subrogation

(1) In the event of either Contracting Party, or any public institution of such Party, as a result of a guarantee given by it within the framework of this Agreement, making payment to its own nationals, the other Contracting

Party acknowledges that the former Contracting Party or the concerned public institution, is entitled by virtue of subrogation to exercise the rights and assert the claims of its own nationals.

(2) Any such payment made by one Contracting Party, or any public institution of such Party, to its nationals in pursuance of this Agreements shall nor affect the right of the nationals to take proceedings to the International Centre for settlement of Investment Disputes in accordance with Article 10 of this Agreement, nor shall it affect the right of the said nationals to carry on the proceeding until the dispute is settled.

Article 9

Priority of Agreement

For the avoidance of any doubt, it is declared that all investments shall, subject to the priority to be attached to this Agreement, be governed by the laws in force in the territory of the Contracting Party in which such investments are made.

Article 10

Reference to the International Centre for the Settlement of Investment Disputes

(1) Any investment dispute shall form the subject of a written notification, accompanied by a sufficently detailed memorandum which will be submitted by one of the Parties to such investment dispute, to the other Party. Such dispute shall preferably be settled amicably by direct consultation between the Parties to the dispute or through pursuit of local, non-judicial or administrative remedies. In the absence of such settlement the dispute shall be submitted to conciliation between the Contracting Parties to this Agreement through diplomatic channels.

(2) If any such dispute cannot be settled within six months of a written notification being submitted by one party ro rhe dispute to rhe other party as provided for in paragraph 1 of this Article, such dispute shall at the request of either party to the dispute be submitted to conciliation or arbitration by the International Centre for the Settlement of Investment Disputes (hereinafter referred to as « The Center ») under the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature in Washington on 18 March, 1965.[1]

(3) In the event of disagreement as to whether conciliation or arbitration is the more appropriate procedure, the national or company affected shall have the right to choose.

(4) Each Contracting Party hereby irrevocably consents to submit to the Centre any legal dispute arising between that Contracting Party and a national or company of the other Contracting Party concerning an investment of the latter in the territory of the former.

(5) The Contracting Party which is a party to the dispute shall not raise as an objection at any stage of the proceedings or enforcement of an award the fact that the national or company which is the other party to the dispute has received in pursuance of an insurance contract an indemnity in respect of some or all of his or its losses.

(6) Neither Contracting Party shall pursue through diplomatic channels any dispute referred to the Centre unless :

(a) the Secretary-General of the Centre, or a conciliation commission or an arbitral tribunal constituted by it, decides that the dispute is not within the jurisdiction of the Centre, or

(b) the other Contracting Party should fail to abide by or to comply with any award rendered by an arbitral tribunal.

Article 11

Most-Favoured-Nation-Treatment

(1) Neither Contracting Party shall in its territory subject investments or returns of nationals or companies of the other Contracting Party to treatment less favourable than that which it accords to investments or returns of nationals or companies of any third State.

[1] United Nations, *Treaty Series*, vol. 575, p. 159.

(2) Neither Contracting Party shall in its territory subject nationals or companies of the other Contracting Party, as regards the management, use, enjoyment disposal or liquidation of their investments, as well as regarding the exercise of other commercial and economic activities related to these investments, to treatment less favourable than that which it accords to nationals or companies of any third State.

Article 12

Exceptions

The provisions in this Agreement relative to the grant of treatment not less favourable than that accorded to the nationals or companies of either Contracting Party or of any third State shall not be construed so as to oblige one Contracting Party to extend to the nationals or companies of the other Party the benefit of any treatment, preference or privilege resulting from :

(a) any existing or future customs union or similar international Agreement to which either of the Contracting Parties is or may become a party, or

(b) any international Agreement or Arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation.

Article 13

Disputes as to interpretation between the Contracting Parties

(1) Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, as far as possible, be settled through diplomatic channels.

(2) If any such dispute cannot be settled, it shall upon the request of either Contracting Party be submitted to arbitration. The arbitral tribunal (hereinafter called « the tribunal ») shall consist of three arbitrators, one appointed by each Contracting Party and the third, who shall be the Chairman of the tribunal, appointed by agreement of the Contracting Parties.

(3) Within two months of receipt of the request for arbitration, each Contracting Party shall appoint one arbitrator, and within two months of such appointment of the two arbitrators, the Contracting Parties shall appoint the third arbitrator.

(4) If the tribunal shall not have been constituted within four months of receipt of the request for arbitration, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to appoint the arbitrator or arbitrators not yet appointed. If the President is a national of either Contracting Party or if he is unable to do so, the Vice President may be invited to do so. If the Vice President is a national of either Contracting Party or if he is unable to do so, the Member of the International Court of Justice next in seniority who is not a national of either Contracting Party may be invited to make the necessary appointments, and so on.

(5) The tribunal shall establish its own rules of procedure.

(6) The tribunal's decision shall be final and the Contracting Parties shall abide by and comply with the terms of its award.

(7) Each Contracting Party shall bear the costs resulting from the appointment of its own member of the tribunal and from its representation in the arbitration proceedings, the costs resulting from the appointment of the Chairman and the remaining costs shall 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 Parties, and this award shall be binding on both Parties.

Article 14

Entry into force and duration

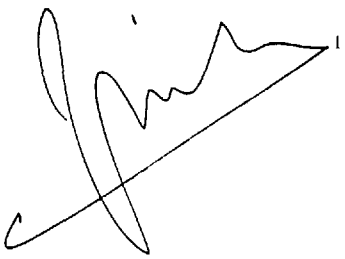
1. This Agreement shall be subject to ratification after the necessary internal procedures for approving the Agreement have been complied with and shall enter into force on the date of exchange of the Instruments of Ratification.

2. This Agreement shall remain in force for a period of ten years. Thereafter it shall continue to be in force until the expiration of twelve months from the date on which either Contracting Party shall have given written notice of termination to the other Contracting Party. Provided that in respect of investments made whilst the Agreement is in force, its provisions shall continue in effect with respect to such investments for a period of ten years after the date of termination.

IN WITNESS WHEREOF the undersigned representatives, duly authorised thereto by their respective Governments have signed the present Agreement.

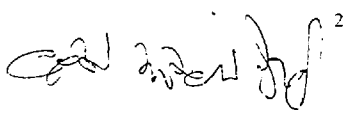
DONE at Brussels this 5th day of April 1982, in two originals, in the English language.

For the Belgo-Luxemburg Economic Union:



[1]

For the Democratic Socialist Republic of Sri Lanka:



[2]

[1] L. Tindemans.
[2] L. Athulathmudali.

EXCHANGE OF LETTERS

I

Brussels, 5th April, 1982

Excellency,

With reference to the Agreement between the Belgo-Luxemburg Economic Union and the Democratic Socialist Republic of Sri Lanka, for the Promotion and Protection of Investments, I have the honour to state that it is an understanding between the Contracting Parties that :

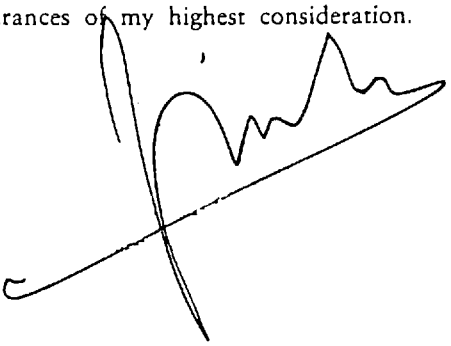
1. if physical or legal persons of one of the Contracting Parties enjoy a decisive and substantial interest in the equity of a foreign company which is not Belgian, Luxemburg or Sri Lankan company, which should itself be owner of shares of a company of the other Contracting Party, this latter Party shall apply the protection referred to in Article 5 of this Agreement to the forementioned physical or legal persons, shareholders of the foreign company concerned;

2. this provision shall only be applicable if the State of the foreign company concerned and the Contracting Party in the territory of which the investments have been made, have concluded an Agreement for the promotion and protection of investments;

3. provided further that the Contracting Party referred to in paragraph 1), or the physical or legal persons of this Party, shall enjoy the protection of Article 5 of this Agreement, only when the State in which the company is incorporated or constituted and the foreign company concerned renounce their claim under the Agreement for the promotion and protection of investments concluded with the Contracting Party in the territory of which the invesment is made.

Please let me have your confirmation that the above correctly sets out the understanding between the two Parties.

Accept, Excellency, the renewed assurances of my highest consideration.



L. TINDEMANS
Minister of External Relations

His Excellency
Mr. L. Athulathmudali
Minister of Trade and Shipping of Sri Lanka
Brussels

II

Brussels, 5th April, 1982

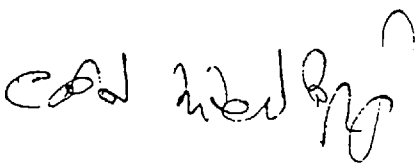
Excellency,

I have the honour to acknowledge receipt of your letter of to-day's date which reads as follows :

[*See letter I*]

In reply I have the honour to confirm that the above correctly sets out the understanding between the two Parties.

Accept, Excellency, the renewed assurances of my highest consideration.



L. ATHULATHMUDALI
Minister of Trade and Shipping
of Sri Lanka

His Excellency
Mr. L. Tindemans
Minister of External Relations
Brussels