No. 34227

CHINA
and
ICELAND

Agreement concerning the promotion and reciprocal protection of investments. Signed at Beijing on 31 March 1994

Authentic texts: Chinese, Icelandic and English.

Registered by China on 12 December 1997.

CHINE
et
ISLANDE

Accord relatif à la promotion et à la protection réciproque des investissements. Signé à Beijing le 31 mars 1994

Textes authentiques : chinois, islandais et anglais.

Enregistré par la Chine le 12 décembre 1997.

[CHINESE TEXT — TEXTE CHINOIS]

中华人民共和国政府和冰岛共和国政府关于促进和相互保护投资协定

中华人民共和国政府和冰岛共和国政府(以下称"缔约双方"),

为缔约一方的投资者在缔约另一方领土内投资创造有利条件,

认识到促进和相互保护此种投资将有助于促进投资者投资的积极性和增进两国的繁荣,

愿在平等互利原则的基础上,加强两国间的经济合作,

达成协议如下:

第一条
定义

本协定内:

一、"投资"一词系指缔约一方投资者依照缔约另一方的法律和法规在缔约另一方领土内所投入的各种财产。特别是,但不限于:

(一)动产和不动产及其他财产权利,如抵押权、质权和留置权;

(二)公司的股份、股票和任何其他形式的参股;

(三)用于再投资的收益、金钱请求权或其他具有财政价值的行为请求权;

(四)知识产权,特别是著作权、专利、工业设计、商标、商名、工艺流程、专有技术和商誉;

(五)法律或法律允许通过合同赋予的经营特许权,包括勘探、耕作、提炼或开发自然资源的特许权。

二、"投资者"一词,在缔约任何一方系指:

(一)根据缔约一方法律,具有其国籍的自然人;

(二)根据缔约一方的法律和法规组建或设立的法人,包括公司、组织和社团。

三、"收益"一词系指由投资所产生的款项,如利润、股息、利息、资本利得、提成费或其他收入。

四、"领土"一词系指缔约一方在其法律中所确定的领土以及根据国际法缔约一方拥有主权权利或管辖权的领域。

第 二 条

促 进 和 保 护 投 资

一、缔约一方应鼓励缔约另一方的投资者在其领土内投资,为此创造良好条件,并有权行使法律赋予的权力接受此种投资。

二、缔约任何一方的投资者在缔约另一方领土内的投资,应始终受到公正和公平的待遇和持久的保护和保障。缔约各方同意,在不损害其法律和法规规定的条件下,对缔约另一方的投资者在其领土内对投资的管理、维持、使用、享有或处置不得采取不合理的或歧视性的措施。缔约各方应遵守其对缔约另一方投资者的投资可能已同意的义务。

第 三 条

投 资 待 遇

一、缔约任何一方在其领土内给予缔约另一方投资者的投资或收益的待遇不应低于其给予任何第三国投资者的投资或收益的待遇。

二、缔约任何一方在其领土内给予缔约另一方投资者在管理、使用、享有或处置他们的投资的待遇，不应低于其给予第三国投资者的待遇。

三、除本条第一、二款的规定外，缔约任何一方应尽量根据其法律和法规的规定给予缔约另一方的投资者的投资与其给予本国投资者以相同的待遇。

四、上述第一款至第三款的规定，不应解释为缔约一方有义务因下述情况而产生的待遇、特惠或特权给予缔约另一方的投资者：

(一)缔约任何一方已经或可能参加的任何现存或将来的关税同盟、自由贸易区或类似的国际协定或为方便边境贸易的协定；

(二)任何全部或主要与税收有关的国际协定或安排，或任何全部或主要与税收有关的国内立法。

第 四 条

征 收

只有为了与国内需要相关的公共目的，并给予合理的补偿，缔约任何一方的投资者在缔约另一方领土内的投资方可被征收、国有化或采取与此种征收或国有化效果相同的措施(以下称“征收”)。此种补偿应等于投资在征收或即将进行的征收已为公众所

知前一刻的真正价值，应包括直至付款之日按正常利率计算的利息，支付不应不适当地迟延，并应有效地兑换和自由转移。其迟延从递交有关申请之日起，不得超过六个月。受影响的投资者应有权依照采取征收的缔约一方的法律，要求该一方的司法或其他独立机构根据本条规定的原则迅速审理其案件和其投资的价值。

第 五 条

损 失 的 补 偿

缔约一方的投资者在缔约另一方领土内的投资，因缔约另一方领土内发生战争或其它武装冲突、国家紧急状态、暴乱、起义或骚乱而受到损失，缔约另一方如果予以恢复、赔偿、补偿或其它处理方面的待遇，不应低于其给予任何第三国的投资者的待遇。由此产生的支付应能自由转换。

第 六 条

汇 回

一、缔约任何一方应在其法律和法规的管辖下，保证缔约另一方投资者转移在其领土内的投资和收益，包括：

（一）资本利得、利润、股息、利息及其他收入；

（二）投资的全部或部分清算款项；

（三）与投资有关的贷款协议的偿还款项；

（四）提成费和酬金；

（五）在缔约一方的领土内从事与投资有关活动的缔约另一方国民的收入。

二、上述转移应依照转移之日接受投资缔约一方通行的汇率以可兑换货币不无故迟延地进行。

第 七 条

代 位

如果缔约一方或其代表机构对其投资者在缔约另一方领土内的某项投资做了担保，并据此向投资者作了支付，缔约另一方应承认该投资者的权利或请求权转让给了缔约一方或其代表机构，并承认缔约一方或其代表机构对上述权利或请求权的代位。代位的权利或请求权不得超过原投资者的原有权利或请求权。

第 八 条

缔约双方之间的争议

一、缔约双方对本协定的解释或适用发生的争端，应尽可能通过外交途径解决。

二、如果缔约双方之间的争端不能在六个月内如此解决，则应依缔约任何一方的要求提交仲裁庭。

三、该仲裁庭应按下述方式逐案设立，自收到仲裁要求后两个月内，缔约方应各指派一名仲裁庭成员，该两名成员应推举一名第三国国民并由缔约双方批准指派为仲裁庭主席。主席应在另两名成员指派出之日起两个月予以指派。

四、如在本条第三款规定的期限内未作出必要的指派，又无任何其他协议，缔约任何一方可请求国际法院院长作出必要的指派，如院长是缔约任何一方的国民，或因其他原因不能履行此项职责，

则应请求副院长作出必要的指派。如副院长是缔约任何一方的国民或也不能履行此项职责，则应依次请求非缔约任何一方国民的国际法院资深法官作出必要的指派。

五、仲裁庭应自行制定其程序规则。仲裁庭应依照本协定的规定和普遍承认的国际法原则作出裁决。

六、仲裁庭的裁决以多数票作出。裁决是终局的，对缔约双方具有拘束力。应缔约任何一方的请求，仲裁庭应说明其作出裁决所根据的理由。

七、缔约双方应负担各自委派的仲裁庭成员和出席仲裁程序的有关费用。仲裁庭主席的费用和其余费用由缔约双方平均负担。

第 九 条

投资者和缔约一方之间的争议

一、缔约一方的投资者与缔约另一方之间就在缔约另一方领土内的投资产生的任何争议应尽量由当事方友好协商解决。

二、如争议在六个月内未能协商解决，当事任何一方有权将争议提交接受投资的缔约一方有管辖权的法院。

三、如涉及征收补偿款额的争议，在诉诸本条第一款的程序后六个月内仍未能解决，可应任何一方的要求，将争议提交“解决投资争端国际中心”或专设仲裁庭。缔约一方的投资者和缔约另一方有关其他事宜的争议，经当事双方同意，可提交专设仲裁庭。如有关的投资者诉诸了本条第二款所规定的程序，本款规定不应适用。

四、“解决投资争端国际中心”的仲裁庭的决定是终局的，对争议双方均有拘束力。缔约双方根据各自的法律对强制执行该决定承担义务。

五、本条第三款所述专设仲庭应按下列方式逐案设立：自收到仲裁要求的两个月内，争议双方应各任命一名仲裁庭成员，该两名成员推选一名与缔约双方均有外交关系的第三国的国民为仲裁庭主席。主席应在另两名成员指派之日起两个月内推选。如在上述规定的期限内，仲裁庭尚未组成，争议任何一方可提请"解决投资争端国际中心"秘书长作出必要的委任。如秘书长为缔约一方的国民或由于其他原因不能履行此职责，应请"解决投资争端国际中心"中非缔约一方国民的资深法官作出必要的委任。

六、专设仲裁庭应自行制定其程序。但仲裁庭在制定程序时可以参照"解决投资争端国际中心"仲裁规则。

七、专设仲裁庭的裁决以多数票作出。裁决是终局的，对争议双方具有约束力。缔约双方根据各自的法律应对强制执行上述裁决承担义务。

八、专设仲裁庭应根据接受投资缔约一方的法律(包括其冲突法规则)、本协定的规定以及普遍承认的国际法原则作出裁决。

九、争议各方应负担其委派的仲裁庭成员和出席仲裁程序的费用，仲裁庭主席的费用和仲裁庭的其余费用应由争议双方平均负担。

第 十 条

其 他 义 务

如缔约任何一方的立法或现有的或在本协定后，缔约双方间确立的国际义务使缔约另一方的投资者的投资处于比本协定更为优惠的待遇地位，该地位不应受本协定的影响。除本协定的规定

外，缔约任何一方应依其法律遵守其同缔约另一方的投资者就投资方面的承诺。

第十一条

本协定的适用

本协定适用于在其生效之前或之后缔约任何一方投资者依照缔约另一方的法律和法规在缔约另一方的领土内进行的投资。

第十二条

磋商

一、缔约双方代表为下述目的应不时进行会谈：

(一)审查本协定的执行情况；

(二)交换法律情报和有关投资机会情报；

(三)提出促进投资的建议；

(四)研究与投资有关的其他事宜。

二、若缔约任何一方提出就本条第一款所列的任何事宜进行磋商，缔约另一方应及时作出反应。磋商可轮流在北京和雷克雅未克举行。

第十三条

生效、期限和终止

一、本协定自缔约双方完成各自国内法律程序并以书面形式相互通知之日起下一个月的第一天开始生效，有效期为十年。

二、如缔约任何一方未在本条第一款规定的有效期期满前一年书面通知缔约另一方终止本协定，本协定将继续有效。

三、本协定第一个十年有效期满后，缔约任何一方可随时终止本协定，但至少应提前一年书面通知缔约另一方。

四、第一至第十二条的规定对本协定终止之日前进行的投资应继续适用十年。

由双方政府正式授权其各自代表签署本协定，以昭信守。

本协定于一九九四年 三 月三十一日在北京签订，一式两份，每份都用中文、冰岛文和英文写成，三种文本同等作准。若解释上发生分歧，以英文本为准。

中华人民共和国政府 代 表	冰岛共和国政府 代 表

[ICELANDIC TEXT — TEXTE ISLANDAIS]

SAMNINGUR MILLI RÍKISSTJÓRNAR ALÞÝÐULÝÐVELDISINS KÍNA OG RÍKISSTJÓRNAR LÝÐVELDISINS ÍSLANDS UM AÐ HVETJA TIL FJÁRFESTINGA OG VEITA ÞEIM GAGNKVÆMA VERND

Ríkisstjórn Alþýðulýðveldisins Kína og ríkisstjórn lýðveldisins Íslands (hér á eftir nefndar samningsaðilar),

sem hyggjast skapa hagstæðar aðstæður fyrir fjárfestingar af hálfu fjárfesta annars samningsaðila á landsvæði hins,

sem er ljóst að hvatning til slíkra fjárfestinga og gagnkvæm vernd þeirra muni stuðla að auknu viðskiptalegu frumkvæði fjárfesta og auka hagsæld í báðum ríkjunum,

sem vilja auka efnahagslega samvinnu ríkjanna á grundvelli jafnréttis og með hag beggja fyrir augum,

hafa orðið ásáttar um eftirfarandi:

1. gr.
Skilgreiningar

Í samningi þessum merkir:

1. „Fjárfesting" hverja þá eign sem fjárfestir annars samningsaðila hefur fjárfest í á landsvæði hins samningsaðilans í samræmi við lög og reglur hins síðargreinda og tekur hugtakið einkum en þó ekki eingöngu til:

(a) lausafjár og fasteigna jafnt sem annarra eignarréttinda svo sem veðs, tryggingarréttinda og kvaða,
(b) eignarhluta, hlutafjár og hvers kyns annarra þátttökuréttinda í félögum,
(c) endurfjárfests arðs og krafna til fjárgreiðslna eða annarra efnda sem fjárhagslegt gildi hafa,
(d) hugverkaréttinda, þar með talinna einkum höfundarréttinda, einkaleyfa, iðnhönnunar, vörumerkja, vöruheita, tæknilegra aðferða, verkþekkingar og viðskiptavildar,
(e) réttar til atvinnurekstrar sem veittur er samkvæmt lögum eða lögmætum samningi, þar á meðal réttar til að leita að náttúruauðlindum eða rækta þær, nema eða nýta.

2. „Fjárfestir", hvað snertir annan hvorn samningsaðila,

(a) einstakling sem er ríkisborgari þess samningsaðila samkvæmt lögum hans,

(b) lögpersónu, þar með talin félög, stofnanir og samtök, sem stofnuð er eða skipulögð samkvæmt lögum og reglum þess samningsaðila.

3. „Arður" fé sem fjárfesting gefur af sér, svo sem rekstrarhagnað, arð af hlutafé, vexti, söluhagnað, greiðslur samkvæmt höfundarrétti, einkaleyfi o.þ.h. eða aðrar tekjur.

4. „Landsvæði" landsvæði hvors samningsaðila eins og lög hans skilgreina það, svo og aðliggjandi svæði þar sem hvor samningsaðili á fullveldisrétt eða lögsögu að þjóðarétti.

2. gr.
Hvatning til fjárfestinga og vernd þeirra

1. Hvor samningsaðili skal stuðla að og skapa aðstæður sem hagstæðar eru til að fjárfestar hins samningsaðilans fjárfesti á landsvæði hans, og skal hann, með fyrirvara um rétt sinn til að beita þeim heimildum sem lög hans veita, taka við slíkum fjárfestingum.

2. Ávallt skal gætt sanngirni og réttlætis hvað snertir meðferð fjárfestinga fjárfesta hvors samningsaðila og skulu þær njóta fullrar verndar og öryggis á landsvæði hins samningsaðilans. Hvor samningsaðili fellst á, með fyrirvara um lög sín og reglur, að hann muni ekki grípa til neinna óréttmætra aðgerða eða aðgerða sem valda mismunun gagnvart umsýslu, viðhaldi, notkun, nýtingu eða ráðstöfun fjárfestinga fjárfesta hins samningsaðilans á landsvæði sínu. Hvor samningsaðili skal virða allar skuldbindingar sem hann kann að hafa tekið á sig hvað snertir fjárfestingar fjárfesta hins samningsaðilans.

3. gr.
Meðferð fjárfestingar

1. Hvorugur samningsaðili skal á landsvæði sínu veita fjárfestingum eða arði fjárfesta hins samningsaðilans óhagstæðari meðferð en hann veitir fjárfestingum eða arði fjárfesta hvaða þriðja ríkis sem er.

2. Hvorugur samningsaðili skal á landsvæði sínu láta fjárfesta hins samningsaðilans sæta óhagstæðari meðferð hvað snertir umsýslu, notkun, nýtingu eða ráðstöfun fjárfestinga þeirra en hann veitir fjárfestum hvaða þriðja ríkis sem er.

3. Til viðbótar því sem kveðið er á um í 1. og 2. tl. þessarar greinar skal hvor samningsaðili svo sem unnt er veita fjárfestingum fjárfesta hins samningsaðilans þá meðferð samkvæmt ákvæðum laga sinna og reglna sem veitt er eigin fjárfestum.

4. Ákvæði 1. til 3. tl. þessarar greinar skulu ekki túlkuð þannig að annar samningsaðili sé skyldur til að veita fjárfestum hins fríðindi vegna meðferðar, betri kjara eða forréttinda er stafa af:

(a) tollabandalagi, fríverslunarsvæði eða áþekkum alþjóðasamningi eða samningi til að greiða fyrir verslun milli aðliggjandi landamærahéraða sem annar hvor samningsaðili er eða kann að verða aðili að og sem nú er fyrir hendi eða verða kann til síðar, eða

(b) alþjóðasamningi eða samkomulagi sem að öllu leyti eða aðallega snertir skattlagningu eða landslögum sem að öllu leyti eða aðallega snerta skattlagningu.

4. gr.
Eignarnám

Ekki má taka fjárfestingar fjárfesta annars hvors samningsaðila eignarnámi eða þjóðnýta þær né gera ráðstafanir gagnvart þeim er hafa sömu áhrif og eignarnám eða þjóðnýting (hér á eftir nefnt „eignarnám") á landsvæði hins samningsaðila, nema í þágu almennings vegna innanlandsnauðsynjar þess samningsaðila og gegn sanngjörnum bótum. Bætur skulu nema raunverulegu verðmæti þeirrar fjárfestingar sem tekin er eignarnámi rétt áður en eignarnám fer fram eða almennt verður kunnugt um fyrirhugað eignarnám, skulu þar meðtaldir algengir vextir til greiðsludags. Bætur skal greiða án ástæðulausrar tafar og skulu vera innleysanlegar í raun fyrir reiðufé og yfirfæranlegar án takmarkana. Við mat á því hvort ástæðulaus töf hafi átt sér stað skal miða upphaf tafar við framlagningu viðeigandi beiðnar, og mega ekki líða meira en sex mánuðir þaðan í frá. Viðkomandi fjárfestir skal, samkvæmt lögum þess samningsaðila sem eignarnám framkvæmir, eiga rétt á tafarlausri endurskoðun á máli sínu og á mati á verðgildi fjárfestingar sinnar af hálfu dómstóls eða annars óháðs yfirvalds þess samningsaðila sem eignarnám framkvæmir í samræmi við meginreglur þessarar greinar.

5. gr.
Skaðabætur

Fjárfestar annars samningsaðilans sem verða fyrir tjóni á fjárfestingum sínum á landsvæði hins samningsaðilans er stafar af stríði, vopnaviðskiptum, neyðarástandi í landinu, uppreisn, upphlaupi eða óeirðum á landsvæði hins síðargreinda skal veitt sú meðferð af hálfu hins síðargreinda hvað snertir endurreisn, skaðleysisgreiðslur, skaðabætur eða annað uppgjör, ef um slíkt er að ræða, sem ekki er óhagstæðari þeirri sem hinn síðargreindi samningsaðili veitir fjárfestum hvaða þriðja ríkis sem er. Greiðslur sem þannig eru til komnar skulu vera yfirfæranlegar án takmarkana.

6. gr.
Yfirfærsla

1. Hvor samningsaðili skal samkvæmt lögum sínum og reglum tryggja að fjárfestar hins samningsaðilans geti yfirfært fjárfestingar sínar og arð sem bundinn er á landsvæði samningsaðilans, þar á meðal:

(a) söluhagnað, rekstrarhagnað, arð af eignarhlutum, vexti og aðrar tekjur,
(b) fé sem fæst við það þegar fjárfestingu er komið í verð að einhverju eða öllu leyti,
(c) greiðslur sem fram fara samkvæmt lánssamningi er tengist fjárfestingu,
(d) greiðslur samkvæmt höfundarrétti, einkaleyfi o.þ.h. og þóknanir,
(e) laun ríkisborgara hins samningsaðilans er starfa í tengslum við fjárfestingu á landsvæði hans.

2. Ofangreindar yfirfærslur skulu fara fram án ástæðulausrar tafar í yfirfæranlegum gjaldmiðli á því gengi er gildir á yfirfærsludegi hjá þeim samningsaðila er við fjárfestingu tók.

7. gr.
Aðilaskipti

Hafi samningsaðili eða stofnun á hans vegum greitt fjárfesti fé samkvæmt ábyrgðaryfirlýsingu er samningsaðilinn hefur veitt með tilliti til fjárfestingar fjárfestis á landsvæði hins samningsaðilans skal hinn síðargreindi viðurkenna yfirfærslu réttinda eða kröfu fjárfestis til hins fyrrgreinda samningsaðila eða stofnunarinnar á hans vegum og að hinn fyrrgreindi samningsaðili eða stofnunin á hans vegum gangi þar með inn í viðkomandi réttindi eða kröfu. Réttindin eða krafan sem þannig er gengið inn í skulu ekki verða meiri en hin upphaflegu réttindi eða hin upphaflega krafa fjárfestisins.

8. gr.
Deilur milli samningsaðila

1. Deilur milli samningsaðila um túlkun eða beitingu samnings þessa ætti eftir því sem unnt er að leysa eftir diplómatískum leiðum.

2. Takist ekki að leysa deilu milli samningsaðila með þessum hætti innan sex mánaða skal hún lögð fyrir gerðardóm að kröfu annars hvors samningsaðilans.

3. Gerðardómur skal skipaður í hverju einstöku máli á eftirfarandi hátt. Innan tveggja mánaða frá móttöku kröfu um gerðardómsmeðferð skal hvor samningsaðili skipa einn mann í gerðardóm. Skulu þeir tveir síðan velja ríkisborgara þriðja ríkis er skal skipaður formaður gerðardóms með samþykki beggja samningsaðila. Skal formaður skipaður innan tveggja mánaða frá því að hinir tveir gerðardómsmennirnir voru skipaðir.

4. Hafi nauðsynleg skipun gerðardómsmanna ekki farið fram innan þeirra fresta, sem tilgreindir eru í 3. tl. þessarar greinar, getur hvor samningsaðili, hafi ekki um annað verið samið, farið þess á leit við forseta Alþjóðadómstólsins að hann annist þær skipanir sem þörf er á. Sé forseti ríkisborgari annars hvors samningsaðila eða geti af öðrum ástæðum ekki sinnt þessum starfa skal fara þess á leit við varaforseta að hann annist þær skipanir sem þörf er á. Sé varaforseti ríkisborgari annars hvors samningsaðila eða geti hann ekki heldur sinnt starfanum skal þess farið á leit við þann dómara Alþjóðadómstólsins, sem næstur er þeim að virðingarstöðu og ekki er ríkisborgari annars hvors samningsaðilans, að hann annist þær skipanir sem þörf er á.

5. Gerðardómur setur sér eigin starfsreglur. Skal hann leysa úr máli eftir ákvæðum samnings þessa og almennt viðurkenndum meginreglum þjóðaréttar.

6. Meiri hlutí atkvæða ræður niðurstöðu gerðardóms. Niðurstaða hans er endanleg og bindandi fyrir báða samningsaðila. Gerðardómur skal að beiðni annars hvors samningsaðila tilgreina forsendur sem niðurstaða hans er byggð á.

7. Hvor samningsaðili skal greiða kostnað vegna síns gerðardómsmanns og kostnað af flutningi máls síns fyrir gerðardómi. Kostnaður vegna formanns og annar kostnaður skal greiddur af samningsaðilum að jöfnu.

9. gr.
Deilur milli fjárfestis og samningsaðila

1. Komi upp deila milli fjárfestis annars samningsaðila og hins samningsaðilans í tengslum við fjárfestingu á landsvæði hins samningsaðilans skal hún eftir því sem unnt er leyst í vinsemd með viðræðum deiluaðila.

2. Ef ekki er unnt að leysa deilu með viðræðum innan sex mánaða getur hvor aðili að deilunni lagt hana fyrir réttbæran dómstól þess samningsaðila sem við fjárfestingu tekur.

3. Ef ekki er unnt að leysa deilu sem varðar fjárhæð eignarnámsbóta innan sex mánaða frá því er viðræður samkvæmt 1. tl. þessarar greinar eru hafnar má að kröfu annars hvors deiluaðila leggja hana fyrir Alþjóðlega stofnun til lausnar fjárfestingardeilum (ICSID), eða fyrir sérstaklega skipaðan gerðardóm. Deilur um önnur atriði milli fjárfestis annars samningsaðilans og hins samningsaðilans má leggja í sérstaklega skipaðan gerðardóm samkvæmt samkomulagi þeirra þar um. Ákvæði þessa töluliðar eiga ekki við ef viðkomandi fjárfestir hefur nýtt sér þá málsmeðferð sem tilgreind er í 2. tl. þessarar greinar.

4. Niðurstaða gerðardóms Alþjóðlegrar stofnunar til lausnar fjárfestingardeilum skal vera endanleg og bindandi fyrir báða deiluaðila. Skulu báðir samningsaðilar tryggja að niðurstöðu hans verði fullnægt samkvæmt landslögum hvors um sig.

5. Sérstaklega skipaður gerðardómur samkvæmt 3. tl. þessarar greinar skal skipaður í hverju einstöku máli á eftirfarandi hátt. Innan tveggja mánaða frá móttöku kröfu um gerðardómsmeðferð skal hvor samningsaðili skipa einn mann í gerðardóm. Skulu þeir tveir síðan velja ríkisborgara þriðja ríkis, er hefur stjórnmálasamband við báða samningsaðila, til að gegna störfum formanns. Skal formaður valinn innan tveggja mánaða frá því er hinir tveir gerðardómsmennirnir voru skipaðir. Hafi gerðardómur ekki verið skipaður innan ofangreinds frests getur hvor samningsaðili farið þess á leit við framkvæmdastjóra Alþjóðlegrar stofnunar til lausnar fjárfestingardeilum að hann annist þær skipanir sem þörf er á. Sé framkvæmdastjóri ríkisborgari annars hvors samningsaðila eða geti af öðrum ástæðum ekki sinnt þessum starfa skal þess farið á leit við þann aðila í Alþjóðlegri stofnun til lausnar fjárfestingardeilum, sem næstur er honum að virðingarstöðu og ekki er ríkisborgari annars hvors samningsaðilans, að hann annist þær skipanir sem þörf er á.

6. Hinn sérstaklega skipaði gerðardómur setur sér eigin starfsreglur. Við ákvörðun sína um starfsreglur getur gerðardómurinn þó haft hliðsjón af Reglum Alþjóðlegrar stofnunar til lausnar fjárfestingardeilum um gerðardómsmeðferð.

7. Meiri hluti atkvæða ræður niðurstöðu hins sérstaklega skipaða gerðardóms. Niðurstaða hans er endanleg og bindandi fyrir báða deiluaðila. Skulu báðir samningsaðilar tryggja að niðurstöðu hans verði fullnægt samkvæmt landslögum hvors um sig.

8. Hinn sérstaklega skipaði gerðardómur skal komast að niðurstöðu í deilumáli samkvæmt lögum þess samningsaðila er hlut á að því og tók við fjárfestingunni, þar á meðal reglum hans um alþjóðlegan einkamálarétt, svo og samkvæmt ákvæðum samnings þessa og almennt viðurkenndum meginreglum þjóðaréttar.

9. Hvor deiluaðili skal greiða kostnað vegna síns gerðardómsmanns í hinum sérstaklega skipaða gerðardómi og kostnað af flutningi máls síns fyrir gerðardómi. Kostnaður vegna formanns og annar kostnaður skal greiddur af deiluaðilum að jöfnu.

10. gr.
Aðrar skuldbindingar

Ef sú aðstaða skapast fyrir áhrif löggjafar annars hvors samningsaðilans eða fyrir áhrif alþjóðlegra skuldbindinga sem þegar eru fyrir hendi eða komið verður á síðar milli samningsaðila til viðbótar við samning þennan að fjárfestingar fjárfesta hins samningsaðilans skuli njóta hagstæðari meðferðar en samningur þessi kveður á um skal samningur þessi engin áhrif hafa á þá aðstöðu. Hvor samningsaðili skal samkvæmt lögum sínum virða allar skuldbindingar er koma til viðbótar þeim sem tilgreindar eru í samningi þessum og hann kann að takast á hendur gagnvart fjárfestum hins samningsaðilans varðandi fjárfestingar þeirra.

11. gr.
Gildissvið samningsins

Samningur þessi gildir um fjárfestingar sem fjárfestar hvors samningsaðila leggja í fyrir og eftir gildistöku hans í samræmi við lög og reglur hins samningsaðilans á landsvæði hins síðargreinda.

12. gr.
Samráð

1. Fulltrúar samningsaðila skulu öðru hvoru eiga með sér fund til að

(a) yfirfara framkvæmd samnings þessa,
(b) skiptast á lagalegum upplýsingum og upplýsingum um fjárfestingartækifæri,
(c) koma á framfæri tillögum um áð stuðla að fjárfestingum,
(d) athuga önnur málefni er tengjast fjárfestingum.

2. Er annar hvor samningsaðili óskar samráðs um málefni er varðar samning þennan skal hinn svara erindi hans án tafar. Samráðsfundir skulu haldnir til skiptis í Beijing og Reykjavík.

13. gr.
Gildistaka, gildistími og uppsögn

1. Samningur þessi skal öðlast gildi á fyrsta degi næsta mánaðar eftir þann dag er samningsaðilar hafa skriflega tilkynnt hvor öðrum að skilyrðum hvors um sig um lagalega meðferð heima fyrir hafi verið fullnægt, og skal hann gilda í tíu ár.

2. Samningur þessi gildir áfram ef annar hvor samningsaðili tilkynnir ekki hinum skriflega að hann segi upp samningnum einu ári áður en hann fellur úr gildi samkvæmt 1. tl. þessarar greinar.

3. Er upphaflegur tíu ára gildistími er liðinn getur hvor samningsaðili hvenær sem er sagt samningi þessum upp með skriflegri tilkynningu til hins samningsaðilans með minnst eins árs fyrirvara.

4. Hvað snertir fjárfestingar sem lagt hefur verið í áður en uppsögn öðlast gildi skulu ákvæði 1. til 12. gr. gilda áfram um tíu ára skeið eftir þann dag.

Þessu til staðfestu hafa fulltrúar ríkisstjórna sinna, sem til þess hafa fullt umboð, undirritað samning þennan.

Gjört í tvíriti í Beijing 31. mars 1994 á kínversku, íslensku og ensku, og eru allir textar jafngildir. Ef túlkun skilur að skal hinn enski texti ráða.

Fyrir hönd ríkisstjórnar Alþýðulýðveldisins Kína:

Fyrir hönd ríkisstjórnar lýðveldisins Íslands:

AGREEMENT[1] BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE REPUBLIC OF ICELAND CONCERNING THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the People's Republic of China and the Government of the Republic of Iceland (hereinafter referred to as the Contracting Parties),

Intending 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 such investments will be conducive to stimulating business initiative of the investors and will increase prosperity in both States,

Desiring to intensify the economic cooperation of both States on the basis of equality and mutual benefits,

Have agreed as follows:

ARTICLE 1
Definitions

For the purposes of this Agreement:

1. The term "investment" means every kind of asset invested by investors of one Contracting Party in accordance with the laws and regulations of the other Contracting Party in the territory of the latter, and in particular, though not exclusively, includes:

(a) movable and immovable property as well as other property rights such as mortgages, pledges and liens;
(b) shares, stock and any other kind of participation in companies;
(c) returns reinvested, claims to money or to any other performance having a financial value;
(d) intellectual property rights including in particular copyrights, patents, industrial designs, trademarks, trade names, technical processes, know-how and goodwill;
(e) business concessions conferred by law or under contract permitted by law, including concessions to search for, cultivate, extract or exploit natural resources.

[1] Came into force on 1 March 1997 by notification, in accordance with article 13.

2. The term "investor" means, with regard to either Contracting Party:

(a) any natural person who has nationality of that Contracting Party in accordance with its laws;

(b) any legal person, including companies, organizations and associations, incorporated or constituted in accordance with the laws and regulations of that Contracting Party.

3. The term "returns" means the amounts yielded by investments, such as profits, dividends, interest, capital gains, royalties or other income.

4. The term "territory" means the territory of each Contracting Party as defined in its laws and the adjacent areas over which each Contracting Party has sovereign rights or jurisdiction in accordance with international law.

ARTICLE 2
Promotion and Protection of Investment

1. Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party for investment in its territory and, subject to its right to exercise powers conferred by its laws, shall admit such investment.

2. Investments of investors of either Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Contracting Party. Each Contracting Party agrees that without prejudice to its laws and regulations it shall not take any unreasonable or discriminatory measures against the management, maintenance, use, enjoyment or disposal of investments in its territory of investors of the other Contracting Party. Each Contracting Party shall observe any obligation it may have entered into with regard to investments of investors of the other Contracting Party.

ARTICLE 3
Treatment of Investment

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

2. Neither Contracting Party shall in its territory subject investors of the other Contracting Party, as regards their management, use, enjoyment or disposal of their investments, to treatment less favourable than that which it accords to investors of any third State.

3. In addition to the provisions of paragraphs 1 and 2 of this Article either Contracting Party shall, to the extent possible, accord treatment in accordance with

the stipulations of its laws and regulations to the investments of investors of the other Contracting Party the same as that accorded to its own investors.

4. The provisions of paragraphs 1 to 3 of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from:

(a) any existing or future customs union, free trade area or similar international agreement or agreement for facilitating frontier trade 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 4
Expropriation

Investments of investors of either Contracting Party shall not be expropriated, nationalized or subjected to measures having effect equivalent to expropriation or nationalization (hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for a public purpose related to the internal needs of that Contracting Party and against reasonable compensation. Such compensation shall amount to the real value of the investment expropriated immediately before the expropriation or before the impending expropriation became public knowledge, shall include interest at a normal rate until the date of payment, shall be made without undue delay, be effectively realizable and be freely transferable. In such case the delay starts by the submission of a relevant application and must not exceed six months. The investor affected shall have a right, under the law of the Contracting Party making the expropriation, to prompt review, by a judicial or other independent authority of that Party, of his case and of the valuation of his investment in accordance with the principles set out in this Article.

ARTICLE 5
Compensation for Losses

Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, a state of national emergency, revolt, insurrection or riot in the territory of the latter Contracting Party, shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, if any, no less favourable than that which the latter Contracting Party accords to investors of any third State. Resulting payments shall be freely transferable.

ARTICLE 6
Repatriation

1. Each Contracting Party shall, subject to its laws and regulations, guarantee investors of the other Contracting Party the transfer of their investments and returns held in the territory of the one Contracting Party, including:

(a) capital gains, profits, dividends, interest and other income;
(b) proceeds from a total or partial liquidation of an investment;
(c) payment made pursuant to a loan agreement in connection with an investment;
(d) royalties and fees;
(e) earnings of nationals of the other Contracting Party who work in connection with an investment in the territory of the one Contracting Party.

2. The transfer mentioned above shall be made without undue delay in a convertible currency at the prevailing exchange rate of the Contracting Party accepting the investment on the date of transfer.

ARTICLE 7
Subrogation

If a Contracting Party or its Agency makes payments to an investor under a guarantee it has granted to an investment of such investor in the territory of the other Contracting Party, such other Contracting Party shall recognize the transfer of any right or claim of such investor to the former Contracting Party or its Agency and recognize the subrogation of the former Contracting Party or its Agency to such right or claim. The subrogated right or claim shall not be greater than the original right or claim of the said investor.

ARTICLE 8
Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should, as far as possible, be settled through the diplomatic channel.

2. If a dispute between the Contracting Parties cannot thus be settled within six months it shall upon the request of either Contracting Party be submitted to an arbitral tribunal.

3. Such an arbitral tribunal shall be constituted for each individual case in the following way. Within two months of the receipt of the request for arbitration, each Contracting Party shall appoint one member of the tribunal. Those 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. The Chairman shall be appointed within two months from the date of appointment of the other two members.

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 agreement, invite the President of the International Court of Justice to make any 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. The arbitral tribunal shall determine its own procedure. The tribunal shall reach its decision in accordance with the provisions of this Agreement and the generally recognized principles of international law.

6. The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding on both Contracting Parties. The tribunal shall, upon the request of either Contracting Party, state the reasons upon which its decision is based.

7. Each Contracting Party shall bear the cost of its own member of the arbitral tribunal and of its representation in the arbitral proceedings. The cost of the Chairman and the remaining costs shall be borne in equal parts by the Contracting Parties.

ARTICLE 9
Disputes between an Investor and a Contracting Party

1. Any dispute between an investor of one Contracting Party and the other Contracting Party in connection with an investment in the territory of the other Contracting Party shall, as far as possible, be settled amicably through negotiations between the parties to the dispute.

2. If the dispute cannot be settled through negotiations within six months, either party to the dispute shall be entitled to submit the dispute to the competent court of the Contracting Party accepting the investment.

3. If a dispute involving the amount of compensation for expropriation cannot be settled within six months after resort to negotiations as specified in paragraph 1 of this Article, it may be submitted at the request of either party to the International Centre for Settlement of Investment Disputes (ICSID) or to an ad hoc arbitral tribunal. Any dispute concerning other matters between an investor of either Contracting Party and the other Contracting Party may be submitted by mutual

agreement to an ad hoc arbitral tribunal. The provisions of this paragraph shall not apply if the investor concerned has resorted to the procedure specified in paragraph 2 of this Article.

4. The decisions by the arbitral tribunal of the International Centre for Settlement of Investment Disputes shall be final and binding on both parties to the dispute. Both Contracting Parties shall commit themselves to the enforcement of the decision in accordance with their respective domestic law.

5. An ad hoc arbitral tribunal referred to in paragraph 3 of this Article shall be constituted for each individual case in the following way. Within two months of the receipt of the request for arbitration, each party to the dispute shall appoint one member of the tribunal. Those two members shall then select a national of a third State which has diplomatic relations with the two Contracting Parties as Chairman. The Chairman shall be selected within two months from the date of appointment of the other two members. If within the period specified above the tribunal has not been constituted, either party to the dispute may invite the Secretary-General of the International Centre for Settlement of Investment Disputes to make the necessary appointments. If the Secretary-General is a national of either Contracting Party or is otherwise prevented from discharging the said function, the next most senior member of the International Centre for Settlement of Investment Disputes who is not a national of either Contracting Party shall be invited to make the necessary appointments.

6. The ad hoc arbitral tribunal shall determine its own procedure. However, the tribunal may, in the course of determination of procedure, take as guidance the Arbitration Rules of the International Centre for Settlement of Investment Disputes.

7. The ad hoc arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding on both parties to the dispute. Both Contracting Parties shall commit themselves to the enforcement of the decision in accordance with their respective domestic law.

8. The ad hoc arbitral tribunal shall reach its decision in accordance with the law of the Contracting Party to the dispute accepting the investment including its rules on the conflict of laws, the provisions of this Agreement and the generally recognized principles of international law.

9. Each party to the dispute shall bear the cost of its own member of the ad hoc arbitral tribunal and of its representation in the arbitral proceedings. The cost of the Chairman and the remaining costs shall be borne in equal parts by the parties to the dispute.

ARTICLE 10
Other Obligations

If the legislation of either Contracting Party or international obligations existing at present or established hereafter between the Contracting Parties in addition to this Agreement result in a position entitling investments by investors of the other Contracting Party to treatment more favourable than is provided for by this Agreement, such position shall not be affected by this Agreement. Each Contracting Party shall observe any commitment in accordance with its laws additional to those specified in this Agreement entered into by the Contracting Party with investors of the other Contracting Party as regards their investments.

ARTICLE 11
Applicability of this Agreement

This Agreement shall apply to investments which are made prior to or after its entry into force by investors of either Contracting Party in accordance with the laws and regulations of the other Contracting Party in the territory of the latter.

ARTICLE 12
Consultations

1. The representatives of the two Contracting Parties shall hold meetings from time to time for the purpose of:

(a) reviewing the implementation of this Agreement;
(b) exchanging legal information and information on investment opportunities;
(c) forwarding proposals on promotion of investment;
(d) studying other issues in connection with investments.

2. Where either Contracting Party requests consultations on any matter concerning this Agreement, the other Contracting Party shall give prompt response. Consultations shall be held alternately in Beijing and Reykjavík.

ARTICLE 13
Entry into Force, Duration and Termination

1. This Agreement shall enter into force on the first day of the following month after the date on which both Contracting Parties have notified each other in writing that their respective internal legal procedures have been fulfilled, and shall remain in force for a period of ten years.

2. This Agreement shall continue in force if either Contracting Party fails to give a written notice to the other Contracting Party to terminate this Agreement one year before the expiration specified in paragraph 1 of this Article.

3. After the expiration of the initial ten-year period, either Contracting Party may at any time thereafter terminate this Agreement by giving at least one year's written notice to the other Contracting Party.

4. With respect to investments made prior to the date of termination of this Agreement, the provisions of Articles 1 to 12 shall continue to be effective for a further period of ten years from such date of termination.

In witness whereof, the duly authorized representatives of their respective Governments have signed this Agreement.

Done in duplicate at Beijing on March 31, 1994 in the Chinese, Icelandic and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

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

[1]

For the Government of the Republic of Iceland:

[2]

[1] Shi Guansheng.
[2] Jon Baldvin Hanibalsson.

[TRADUCTION — TRANSLATION]

ACCORD[1] ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE POPULAIRE DE CHINE ET LE GOUVERNEMENT DE LA RÉPUBLIQUE D'ISLANDE RELATIF À LA PROMOTION ET À LA PROTECTION RÉCIPROQUES DES INVESTISSEMENTS

Le Gouvernement de la République populaire de Chine et le Gouvernement de la République d'Islande, ci-après dénommés « les Parties contractantes »,

Soucieux de créer des conditions favorables aux investissements effectués par des investisseurs de l'une des Parties contractantes sur le territoire de l'autre Partie contractante,

Reconnaissant que l'encouragement et la protection réciproque desdits investissements auront pour effet de stimuler les initiatives des entreprises dans ce domaine et d'accroître la prospérité des deux Etats,

Désireux d'intensifier la coopération économique entre les deux pays sur la base de l'égalité et de l'avantage mutuel,

Sont convenus de ce qui suit :

Article premier

DÉFINITIONS

Aux fins du présent Accord :

1. Le terme « Investissement » désigne les avoirs de toute nature, investis par des investisseurs d'une des Parties contractantes sur le territoire de l'autre Partie contractante, conformément aux lois et règlements de cette dernière et, notamment, mais non exclusivement :

(*a*) Les biens meubles et immeubles et autres droits réels tels qu'hypothèques, nantissements et droits de gage;

(*b*) Les actions, valeurs et toute autre forme de participation dans des sociétés;

(*c*) Les revenus réinvestis, créances et toute autre prestation dotée d'une valeur financière;

(*d*) Les droits de propriété intellectuelle, y compris les droits d'auteur, marques de fabrique, études et plans industriels, marques déposées, procédés techniques, secrets de fabrication et clientèles;

(*e*) Les concessions commerciales octroyées en vertu de la loi ou aux termes de contrats autorisés par la loi, y compris les concessions portant sur la participation, la culture, l'extraction ou l'exploitation de ressources naturelles.

2. Le terme « investisseurs » désigne pour l'une ou l'autre des Parties contractantes :

[1] Entré en vigueur le 1er mars 1997 par notification, conformément à l'article 13.

(*a*) Les personnes physiques qui possèdent la nationalité de cette Partie contractante conformément à sa législation;

(*b*) Les personnes morales, y compris les sociétés, organisations et associations, constituées conformément à la législation et à la réglementation de ladite Partie contractante.

3. Le terme « revenus » désigne le produit des investissements tels que bénéfices, dividendes, intérêts, plus-values, redevances et autres revenus.

4. Le terme « territoire » désigne le territoire de chaque Partie contractante défini par sa législation et les zones adjacentes sur lesquelles chaque Partie contractante exerce sa souveraineté ou sa juridiction conformément au droit international.

Article 2

PROMOTION ET PROTECTION DES INVESTISSEMENTS

1. Chaque Partie contractante encourage les investisseurs de l'autre Partie contractante à effectuer des investissement sur son territoire, crée des conditions favorables à cet effet et, sous réserve de son droit d'exercer les pouvoirs conférés par sa législation, autorise lesdits investissements.

2. Les investissements des investisseurs de l'une ou l'autre des Parties contractantes bénéficient en tout temps d'un traitement juste et équitable ainsi que d'une protection et sécurité totales sur le territoire de l'autre Partie contractante. Chaque Partie contractante convient que, sans préjudice de sa législation et de sa réglementation, elle n'adoptera aucune mesure déraisonnable ou discriminatoire envers la gestion, le maintien, l'utilisation, la jouissance ou la vente d'investissements sur son territoire d'investisseurs de l'autre Partie contractante. Chaque Partie contractante respecte toute obligation contractée en ce qui concerne les investissements d'investisseurs de l'autre Partie contractante.

Article 3

TRAITEMENT DES INVESTISSEMENTS

1. Aucune des Parties contractantes ne soumet sur son territoire les investissements ou les revenus d'investisseurs de l'autre Partie contractante à un traitement moins favorable que celui qu'elle accorde aux investissements et revenus d'investisseurs de tout Etat tiers.

2. Aucune des Parties contractantes ne soumet sur son territoire les investisseurs de l'autre Partie contractante, en ce qui concerne la gestion, l'utilisation, la jouissance ou la liquidation de leurs investissements, à un traitement moins favorable que celui qu'elle accorde aux investissements de tout Etat tiers.

3. Outre les dispositions des paragraphes 1 et 2 du présent Article, chaque Partie contractante accordera dans la mesure du possible aux investissements d'investisseurs de l'autre Partie contractante le même traitement que celui accordé à ses propres investisseurs, conformément aux dispositions de sa législation et de sa réglementation.

4. Les dispositions des paragraphes 1 à 3 du présent Article ne doivent pas être interprétées comme une obligation pour une Partie contractante d'accorder aux

investisseurs de l'autre Partie contractante le bénéfice de tout traitement, préférence ou privilège résultant de :

(*a*) De toute union douanière, zone de libre échange ou accord international semblable ou accord visant à faciliter le commerce frontalier auquel l'une ou l'autre des Parties contractantes est ou peut devenir partie, ou

(*b*) De tout accord international ayant trait totalement ou principalement à l'imposition ou de toute législation interne ayant trait totalement ou principalement à l'imposition.

Article 4

EXPROPRIATION

Les investissements d'investisseurs de l'une ou l'autre des Parties contractantes ne sont pas expropriés, nationalisés ou soumis à des mesures équivalant à une expropriation ou à une nationalisation (ci-après dénommée « expropriation ») sur le territoire de l'autre Partie contractante si ce n'est pour une cause d'intérêt public résultant des besoins internes de ladite Partie contractante et moyennant une indemnisation raisonnable. Ladite indemnisation sera égale à la valeur réelle de l'investissement exproprié immédiatement avant l'expropriation ou avant le moment où la décision d'exproprier est rendue publique. Ladite indemnisation comprendra des intérêts à un taux normal jusqu'à la date du paiement de l'indemnisation, sera versée sans délai indu, sera effectivement réalisable et librement transférable. Ledit délai commencera avec la date de présentation d'une demande pertinente et ne dépassera pas six mois. L'investisseur affecté aura le droit, en vertu de la législation de la Partie contractante demandant l'expropriation à un examen prompt, par une autorité judiciaire ou autre organisme indépendant de son dossier et de l'évaluation de son investissement conformément aux principes énoncés dans le présent Article.

Article 5

INDEMNISATION POUR PERTES

Les investisseurs de l'une des Parties contractantes dont les investissements sur le territoire de l'autre Partie contractante subissent des pertes du fait d'une guerre ou autre conflit armé, d'un état d'urgence nationale, d'une révolte, d'une insurrection ou d'émeutes sur le territoire de la dernière Partie contractante se voient accorder par cette dernière en matière de restitution, indemnisation, réparation ou autre mode de règlement le cas échéant, un traitement non moins favorable que celui que la dernière Partie contractante accorde aux investisseurs de tout Etat tiers. Les paiements en question seront librement transférables.

Article 6

RAPATRIEMENT

1. Sans préjudice de sa législation et de sa réglementation, chaque Partie contractante garantit aux investisseurs de l'autre Partie contractante le transfert des investissements et revenus dont ils disposent sur le territoire de la première Partie contractante, notamment :

(*a*) Les plus-values, bénéfices, dividendes, intérêts et autres revenus;

(*b*) Le produit de la liquidation totale ou partielle d'un investissement;

(*c*) Les remboursements de prêts en rapport avec un investissement;

(*d*) Les redevances et commissions;

(*e*) Les rémunérations des ressortissants de l'autre Partie contractante employés en relation avec un investissement sur le territoire de la première Partie contractante.

2. Les transferts susmentionnés seront effectués sans retard indu dans une monnaie convertible au taux de change en vigueur sur le territoire de la Partie contractante acceptant l'investissement à la date du transfert.

Article 7

SUBROGATION

Si l'une des Parties contractantes ou tout organisme par elle désigné effectue des paiements à un investisseur en vertu de la garantie qu'elle a accordée à un investissement dudit investisseur sur le territoire de l'autre Partie contractante, cette dernière reconnaît le transfert de tout droit ou créance dudit investisseur à la première Partie contractante ou à tout organisme par elle désigué et reconnaît la subrogation de la première Partie contractante ou de l'organisme par elle désigné audit droit ou créance. La subrogation n'excède pas les droits initiaux de l'investisseur.

Article 8

DIFFÉRENDS ENTRE LES PARTIES CONTRACTANTES

1. Les différends entre les Parties contractantes relatifs à l'interprétation ou à l'application du présent Accord sont, dans la mesure du possible, réglés par la voie diplomatique.

2. Si un différend entre les Parties contractantes ne peut être réglé dans un délai de six mois, il sera porté devant un tribunal arbitral sur la demande de l'une ou l'autre des Parties contractantes.

3. Dans chaque cas individuel, ce tribunal arbitral sera constitué de la façon suivante : chaque Partie contractante nomme dans les deux mois à compter de la date à laquelle un Etat contractant a reçu la requête d'arbitrage, un membre du tribunal. Ces deux arbitres désignent conjointement un ressortissant d'un Etat tiers qui, sur approbation des deux Parties contractantes, sera nommé Président du tribunal. Ce troisième arbitre est nommé dans les deux mois à partir de la date de désignation des deux autres membres.

4. Si les nominations nécessaires n'ont pas été effectuées dans les délais spécifiés au paragraphe 3 du présent Article, l'une ou l'autre des Parties contractantes peut, en l'absence de tout autre accord, inviter le Président de la Cour internationale de Justice à procéder aux nominations nécessaires. Si le Président est un ressortissant de l'un des deux Etats contractants ou s'il est empêché pour toute autre raison de s'acquitter de cette tâche, il sera demandé au Vice-Président de procéder aux nominations nécessaires. Si le Vice-Président est lui-même un ressortissant de l'une des Parties contractantes ou s'il est empêché de s'acquitter de cette tâche, il est

demandé au membre de la Cour internationale de Justice de rang immédiatement inférieur et qui n'est pas un ressortissant de l'une des Parties contractantes de procéder aux nominations nécessaires.

5. Le tribunal arbitral fixe lui-même sa procédure. Il prend ses décisions en fonction des dispositions du présent Accord et des règles généralement reconnues du droit international.

6. Le tribunal arbitral se prononce à la majorité. Ses décisions sont sans appel et ont force exécutoire pour les deux Parties contractantes. A la demande de l'une ou l'autre des Parties contractantes, le tribunal donne les raisons sur lesquelles sa décision est fondée.

7. Chaque Partie contractante prend à charge les frais de son arbitre et de sa représentation à la procédure arbitrale. Les frais afférents au Président et les autres frais sont répartis à égalité entre les Parties contractantes.

Article 9

DIFFÉRENDS ENTRE UN INVESTISSEUR ET UNE PARTIE CONTRACTANTE

1. Tout différend entre un investisseur d'une Partie contractante et l'autre Partie contractante relatif à un investissement dans le territoire de l'autre Partie contractante sera, dans la mesure du possible, réglé à l'amiable dans le cadre de négociations entre les parties au différend.

2. Si un différend ne peut pas être réglé dans le cadre de négociations dans un délai de six mois, il peut être soumis par l'une ou l'autre des parties au tribunal compétent de la Partie contractante acceptant l'investissement.

3. Si un différend relatif au montant de l'indemnisation pour expropriation ne peut pas être réglé dans un délai de six mois à partir de l'ouverture des négociations, comme spécifié au paragraphe 1 du présent Article, il peut être soumis à la demande de l'une ou l'autre partie au Centre international pour le règlement des différends en matière d'investissement (CIRDI) ou à un tribunal arbitral *ad hoc*. Tout autre différend relatif à d'autres questions entre un investisseur d'une Partie contractante et l'autre Partie contractante peut-être soumis par accord mutuel à un tribunal arbitral *ad hoc*. Les dispositions du présent paragraphe ne s'appliquent pas dans le cas où l'investisseur concerné a eu recours à la procédure spécifiée au paragraphe 2 du présent Article.

4. Les décisions prises par le tribunal arbitral du Centre international pour le règlement des différends en matière d'investissement sont sans appel et ont force exécutoire pour les deux parties au différend. Les deux Parties contractantes s'engagent à appliquer la décision conformément à leur législation nationale.

5. Le tribunal arbitral *ad hoc* visé au paragraphe 3 du présent Article est constitué dans chaque cas de la manière suivante : dans les deux mois qui suivent la réception de la demande d'arbitrage chaque partie au différend désigne un membre du tribunal. Ces deux membres choisissent comme Président un ressortissant d'un Etat tiers qui entretient des relations diplomatiques avec les deux Parties. Le Président est désigné dans un délai de deux mois à partir de la date de désignation des deux autres membres. Si dans le délai susmentionné le tribunal n'a pas été constitué, l'une ou l'autre des parties au différend peut inviter le Secrétaire général du Centre

international pour le règlement des différends en matière d'investissement à procéder aux nominations nécessaires. Si le Secrétaire général est un ressortissant de l'une ou l'autre des Parties contractantes ou s'il est empêché pour toute autre raison de s'acquitter de cette tâche, il est demandé au membre le plus ancien de la Cour internationale de Justice qui n'est pas un ressortissant de l'une ou l'autre des Parties contractantes.

6. Le tribunal arbitral *ad hoc* fixe lui-même ses propres règles de procédures. Toutefois, il peut s'inspirer pour ce choix des règlements en matière d'arbitrage du Centre international pour le règlement des différends en matière d'investissement.

7. Le tribunal arbitral *ad hoc* prend sa décision à la majorité des voix. Ladite décision est sans appel et a force exécutoire pour les deux parties au différend. Les deux Parties contractantes s'engagent à appliquer la décision conformément à leurs législations nationales respectives.

8. Le tribunal arbitral *ad hoc* se prononce conformément à la législation de la Partie contractante acceptant l'investissement, y compris ses règlements en matière de conflit de lois, les dispositions du présent Accord ainsi que les principes du droit international généralement acceptés.

9. Chaque partie au différend prend à sa charge les frais de son arbitre et de sa représentation à la procédure arbitrale. Les frais du Président et les autres frais sont répartis à égalité entre les parties au différend.

Article 10

AUTRES OBLIGATIONS

Si la législation de l'une ou l'autre des Parties contractantes ou les obligations internationales existant à l'heure actuelle ou établies par la suite entre les Parties contractantes en dehors du présent Accord entraînent une situation faisant bénéficier les investissements des investisseurs de l'autre Partie contractante d'un traitement plus favorable que celui qui est accordé dans le cadre du présent Accord, ladite situation ne sera pas affectée par le présent Accord. Chaque Partie contractante, conformément à sa législation, s'acquitte de tous engagements autres que ceux visés au présent Accord et contractés par la Partie contractante avec les investisseurs de l'autre Partie contractante en ce qui concerne leurs investissements.

Article 11

APPLICABILITÉ DU PRÉSENT ACCORD

Le présent Accord s'applique aux investissements effectués avant comme après son entrée en vigueur par des investisseurs d'une des Parties contractantes sur le territoire de l'autre Partie contractante conformément aux lois et règlements de cette dernière.

Article 12

CONSULTATIONS

1. Les représentants des deux Parties contractantes se réunissent périodiquement aux fins :

(*a*) De suivre l'application du présent Accord;

(*b*) D'échanger des informations d'ordre juridique et concernant les possibilités d'investissement;

(*c*) De transmettre des propositions relatives à l'encouragement des investissements;

(*d*) D'étudier d'autres questions concernant les investissements.

2. Lorsque l'une ou l'autre des Parties contractantes sollicite la tenue de consultations concernant le présent Accord, l'autre Partie contractante accède sans délai à sa demande. Ces consultations ont lieu tour à tour à Beijing et à Reykjavik.

Article 13

ENTRÉE EN VIGUEUR, DURÉE ET DÉNONCIATION

1. Le présent Accord entrera en vigueur le premier jour du mois suivant la date à laquelle les deux Parties contractantes se seront notifié par écrit l'accomplissement de leurs procédures juridiques nationales respectives, et le demeurera pendant une période de dix ans.

2. Le présent Accord sera reconduit si l'une des Parties contractantes ne notifie pas par écrit à l'autre Partie contractante son intention de le dénoncer un an avant la date d'expiration prévue au paragraphe 1 du présent Article.

3. A l'expiration du délai initial de dix ans, chacune des Parties contractantes pourra à tout moment dénoncer le présent Accord moyennant un préavis écrit d'un an au moins à l'autre Partie contractante.

4. En ce qui concerne les investissements effectués avant la date d'expiration du présent Accord, les dispositions des Articles 1 à 12 continueront à s'appliquer pendant une nouvelle période de dix ans à compter de cette date.

EN FOI DE QUOI les représentants dûment autorisés par leurs Gouvernements respectifs ont signé le présent Accord.

FAIT à Beijing le 31 mars 1994 en double exemplaire en langues chinoise, islandaise et anglaise, les trois textes faisant également foi. En cas de divergence d'interprétation, le texte anglais prévaudra.

Pour le Gouvernement
de la République populaire de Chine :

SHI GUANSHENG

Pour le Gouvernement
de la République d'Islande :

JON BALDVIN HANIBALSSON