

PROTOCOL

between the Czech Republic and the Republic of Macedonia amending the Agreement between the Czech Republic and the Republic of Macedonia for the Promotion and Reciprocal Protection of Investments

The Czech Republic and the Republic of Macedonia (hereinafter referred to as the "Contracting Parties");

Having in mind the intentions of the Czech Republic to amend the Agreement between the Czech Republic and the Republic of Macedonia for the Promotion and Reciprocal Protection of Investments signed on June 21, 2001 in Prague (hereinafter referred to as "the Agreement"), in order to comply with its obligations as a Member State of the European Union;

Acknowledging that the Czech Republic, pursuant to Article 307 of the Treaty establishing the European Community and Article 6.10 of its Act of Accession to the European Union, must take all appropriate steps to eliminate incompatibilities between the Community Law and its other international treaties including the Agreement and;

Having in mind the status of the Republic of Macedonia as a candidate country for the European Union membership and its obligations in the process of accession;

Deciding, as a result, that certain amendments to the Agreement are necessary in order to avoid such incompatibilities;

Have agreed to conclude the following Protocol thereto:

ARTICLE 1

In Article 3 of the Agreement, paragraph 3 is replaced by new paragraph 3, which reads as follows:

"3. The National Treatment and Most-Favoured-Nation Treatment provisions of this Article shall not apply to advantages accorded by a Contracting Party pursuant to its obligations as a member of a customs, economic or monetary union, a common market or a free trade area."

After paragraph 3 new paragraphs 4 and 5 are added, which read as follows:

“4. The Contracting Party understands the obligations of the other Contracting Party as a member of a customs, economic or monetary union, a common market or a free trade area to include obligations arising out of an international agreement or reciprocity agreement of that customs, economic or monetary union, common market or free trade area.

5. The provisions of this Agreement shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party, or to the investments or returns of such investors, the benefit of any treatment, preference or privilege which may be extended by the Contracting Party by virtue of any international agreement or arrangement relating wholly or mainly to taxation.”

ARTICLE 2

In Article 6 of the Agreement, at the beginning of the first sentence of paragraph 1, the following words are added:

“Without prejudice to measures adopted by the European Community”

ARTICLE 3

In Article 8, paragraph 2 of the Agreement, after the words “cannot be thus settled” the following words are added “within six months of the date when the request for the settlement has been submitted”.

ARTICLE 4

After Article 9 of the Agreement new Article 10 is inserted, which reads as follows:

“Essential Security Interests

This Agreement shall not preclude the application by either Contracting Party of measures necessary for the maintenance of public order, the fulfilment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests which may include interests deriving from its membership of a customs, economic or monetary union, a common market or a free trade area.”

The subsequent Articles of the Agreement are re-numbered.

ARTICLE 5

This Protocol shall enter into force on the thirtieth day after the second notification by which the Contracting Parties shall notify each other that their internal legal procedures for its entry into force have been completed. The Protocol shall remain in force as long as the Agreement shall remain in force.

Done at *Brussels*... on *May 5th* 2009. in two originals, each in the Czech, Macedonian and English languages, all texts being equally authentic. In case of any divergence of interpretation the English text shall prevail.



FOR THE CZECH REPUBLIC



FOR THE REPUBLIC OF MACEDONIA