

Protocol
between the Government of the Czech Republic and
the Government of the Socialist Republic of Viet Nam
on the amendments to the Agreement between the Government of
the Czech Republic and the Government of the Socialist Republic of
Viet Nam for the Promotion and Reciprocal Protection of Investment,
signed on the 25th November, 1997 at Hanoi

The Government of the Czech Republic and the Government of the Socialist Republic of Viet Nam (hereinafter referred to as "Contracting Parties") have agreed to amend the Agreement between the Government of the Czech Republic and the Government of the Socialist Republic of Viet Nam for the Promotion and Reciprocal Protection of Investment (hereinafter referred to as "the Agreement") as follows:

ARTICLE 1

Paragraph 4 of Article 3 of the Agreement is deleted and replaced by new paragraphs 4 to 6:

"4. 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.

5. 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.

6. 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 of general application, which are applied neither arbitrarily nor discriminatory, based on the rights and obligations, which a Contracting Party has assumed as a member of or a party to a customs, economic or monetary union, a common market or a free trade area ..."

ARTICLE 3

1) In Article 8, paragraph 2 first part of the sentence reads as follows:

“If any dispute between an investor of one Contracting Party and the other Contracting Party cannot thus be settled within a period of six months of the date when the request for the settlement has been submitted,...”

2) In Article 8, paragraph 2, letter /c/ the sentence “This arbitral awards shall be final and binding on both parties to the dispute” is deleted.

3) After paragraph 2 of Article 8 new paragraph 3 is inserted:

“3. The arbitral tribunal shall decide on the basis of the law, taking into account the sources of law in the following sequence:

- the provisions of this Agreement, and other relevant Agreements between the Contracting Parties;
- the law in force of the Contracting Party concerned;
- the provisions of special agreements relating to the investment;
- the general principles of international law.

The arbitral awards shall be final and binding on both parties to the dispute and shall be enforceable in accordance with the law in force of the Contracting Party concerned.”

ARTICLE 4

The new Article 11 after Article 10 of the Agreement is inserted, which reads as follows:

“Essential Security Interests

1. Nothing in this Agreement shall be construed to prevent any Contracting Party from taking any actions that it considers necessary for the protection of its essential security interests,

/a/ relating to criminal or penal offences;

/b/ relating to traffic in arms, ammunition and implements of war and transactions in other goods, materials, services and technology undertaken directly or indirectly for the purpose of supplying a military or other security establishment;

/c/ taken in time of war or other emergency in international relations, or

/d/ relating to the implementation of national policies or international agreements respecting the non-proliferation of nuclear weapons or other nuclear explosive devices or

/e/ in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

2. A Contracting Party's essential security interests may include interests deriving from its membership in a customs, economic, or monetary union, a common market or a free trade area."

The subsequent Articles in the Agreement shall be re-numbered.

ARTICLE 5

The Protocol shall enter into force on the ninetieth day after the later notification by which the Contracting Parties communicate 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.

Done in Hanoi... on March 21,.....2008 in two originals in the Czech, Vietnamese and English languages, all texts being equally authentic. In case of any divergence of interpretation the English text shall prevail.

FOR
THE GOVERNMENT OF
THE CZECH REPUBLIC



FOR
THE GOVERNMENT OF
THE SOCIALIST REPUBLIC OF VIET NAM

