

Agreement Between the Government of the People's Republic of China and the Government of the Kingdom of Norway Regarding the Mutual Protection of Investments

The Government of the People's Republic of China and the Government of the Kingdom of Norway (each hereinafter referred to as a "Contracting party");

Desiring to develop the economic cooperation between them, and encourage and create favourable conditions for investments of national and companies of one Contracting Party in the territory of the other Contracting Party on the basis of equality and mutual benefit,

Have agreed as follows:

Article 1 Definitions

For the purpose of this Agreement:

1. The term "investment" means assets as permitted by each Contracting Party according to its respective laws and regulations and includes mainly:

(i) movable and immovable property and any other rights in rem such as mortgages, liens, pledges, usufruct and similar rights;

(ii) shares, stocks and debentures of companies or interests in the property of such companies;

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

(iv) copyrights industrial property rights (such as patents, trade marks, industrial designs), knowhow and trade names;

(v) concessions conferred by law or under contract if permitted by law, including concessions to search for and exploit natural resources.

2. The term "returns" means profit, interest, dividends and other lawful income derived from investments.

3. The term "national" means:

(i) with respect to the People's Republic of China, a natural person who is of Chinese nationality in accordance with the Nationality Law of the People's Republic of China.

(ii) with respect to the Kingdom of Norway, a natural person who is a citizen of the Kingdom of Norway according to its law.

4. The term "company" means:

(i) with respect to the People's Republic of china any economic entity established and domiciled in the territory of the People's Republic of china under its law.

(ii) With respect to the Kingdom of Norway, any juridical person as well as any sole proprietorship or any company or association, irrespective of whether the liability of its partners, associates or members is limited or unlimited and whether or not its activities are directed at profit, having its seat in the territory of Norway.

Article 2 Applicability of this Agreement

This Agreement shall apply to investments made in the territory of the Kingdom of Norway under its laws and regulations by nationals or companies of the People's Republic of China and to investments made in the territory of the People's Republic of China under its laws and regulations by nationals or companies of the Kingdom of Norway prior to as well as after the entry into force of this Agreement.

Article 3 Promotion and Protection of Investments

Each Contracting Party shall encourage nationals or companies of the other Contracting Party to commit investments in its territory, and accept such investments in accordance with its laws and regulations and accord them equitable and reasonable treatment and protection. Such investments shall be consistent with the national objectives of and be subject to the laws and regulations of the Contracting Party in whose territory the investments are made.

Article 4 Most-Favoured-Nation Provisions

1. Investments made by nationals or companies of one Contracting Party in the territory of the Other Contracting Party shall be accorded treatment no less favourable than that accorded to investments made by nationals or companies of any third State.

2. Nationals or companies of one Contracting Party whose investment suffer losses in the territory of the other Contracting Party owing to war, other armed conflicts, state of national emergency or other similar events shall be accorded treatment no less favourable than that accorded to nationals or companies of any third State, if the other Contracting Party take any measures relating to such losses.

3. The provisions of Paragraph 1 and 2 of this Article shall not apply to:

(i) any advantages accorded to nationals or companies of a third State by the other Contracting Party based on existing or future customs union, free trade area, regional economic organization, any international agreement relating to taxation and any domestic legislation relation to taxation.

(ii) any advantages accorded to nationals or companies of a third State by the other Contracting Party for the purpose of facilitating frontier trade.

Article 5 Expropriation

1. If one Contracting Party expropriates, nationalizes or take other similar measures (all such measures hereinafter referred to as "expropriation") against an investment made by

a national or company of the other Contracting Party in the territory of the former one, the following conditions shall be followed.

- (i) the expropriation shall be done for public interest and under domestic legal procedures;
- (ii) shall not be discriminatory;
- (iii) shall be against compensation.

2. The amount of compensation shall be paid without undue delay and shall be convertible and freely transferable. Such compensation shall amount to the value of the investment immediately before the expropriation and shall include interest until the date of payment.

Article 6 Repatriation of Investments

1. Each Contracting Party shall, subject to its laws and regulations, allow nationals or companies of the other Contracting Party to transfer, in a convertible currency and without undue delay, the following funds relating to an investment:

- (i) returns, royalties, technical assistance fees and other lawful income;
- (ii) the proceeds of the total or partial liquidation of an investment;
- (iii) funds in repayment of borrowings in connection with an investment;
- (iv) the lawful earnings of nationals of the other Contracting Party who work in connection with an investment in the territory of one Contracting Party.

2. The treatment accorded under the provisions of Paragraph 1 of this Article by one Contracting Party to nationals or companies of the other Contracting Party shall be no less favourable than that accorded to nationals or companies of any third State.

Article 7 Subrogation

If a Contracting Party guarantees an investment made by its nationals or companies in territory of the other Contracting Party and makes a payment to its nationals or companies under the guaranty, the other Contracting Party shall recognize the transfer of the relevant rights of such nationals or companies to the one Contracting Party and the subrogation of the one Contracting Party to such rights. But the rights subrogated by the one Contracting Party shall not exceed the rights of the original nationals or companies.

Article 8 Settlement of Disputes Between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall, as far as possible, be settled through friendly consultation.

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

3. The arbitral tribunal shall be constituted for each individual case in the following way: each Contracting Party shall appoint an arbitrator. The two arbitrators shall appoint a third arbitrator as Chairman, who is a national of a third State which has diplomatic relations with both Contracting Parties. The Chairman shall be approved by both Parties. The

arbitrators shall be appointed within two months and the Chairman within four months from the date when one Contracting Party notifies the other Contracting Party of its submission of the dispute to arbitration.

4. If appointments are not made within the period specified in paragraph 3, 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 is otherwise unable to discharge the said function, the Vice President or next most senior member or the International Court of Justice shall be invited make the necessary appointments.

5. The arbitral tribunal shall reach its decision by a majority vote. Such decision shall be binding on both Contracting Parties. Each Contracting Party shall bear the cost of its own arbitrator and of its representation in the arbitral proceedings. The cost of Chairman in discharging his arbitral function shall be borne equally by the Contracting Parties.

6. The arbitral tribunal shall determine its own procedures.

Article 9 Entry into Force, Duration and Termination

1. This Agreement shall enter into force thirty days after the date of notification by each Contracting Party of the fulfillment of its respective internal legal procedures necessary for its entry into force.

2. This Agreement shall remain in force for a period of fifteen years. If neither Contracting Party terminates it by giving a written notice to the Contracting Party after the expiry of the initial period of fourteen years, this Agreement shall continue in force.

3. After the expiry of the initial fifteen-year period, either Contracting Party may notify in writing at any time the other Contracting Party of the termination of this Agreement. This Agreement shall remain in force for one year from the date of notice of termination.

4. With respect to investments made prior to the date of termination of this Agreement, the provisions of all of the other Articles of this Agreement shall continue to be effective for a further period of fifteen years from the date of termination.

Done in duplicates at Beijing, on November 21, 1984. in the Chinese, Norwegian and English languages, all texts being equally authentic. In case of divergencies of interpretation the English text shall prevail.

(Zhao Ziyang)

(Kare Willoch)

For the Government of the People' Republic
of China

For the Government of the Kingdom of
Norway

Protocol

On signing this Agreement between the Government of the People's Republic of China and the Government of the Kingdom of Norway regarding the Mutual Protection of Investment, the authorized representatives of both Contracting Parties have agreed upon the following provisions, which constitute an integral part of this Agreement:

1. "Investment" mentioned in Paragraph 1 of Article I includes investment of a juridical person in a third state which is controlled by nationals or companies of one Contracting Party and which is established in the territory of the other Contracting Party under the laws and regulations of the latter one. The relevant provisions of this Agreement shall apply to such investment only when such third State has no right or abandons the right to claim compensation after the investment is expropriated by the other Contracting Party.

2.

(i) Concerning "expropriation" in Article V, if a national or company of either Contracting Party whose investment is expropriated asserts that the expropriation does not conform to the law of the Contracting Party taking the expropriatory measures, the competent legislature or course of the Contracting Party taking expropriatory measures may upon the request of such national or company, review such expropriation.

(ii) If a national or company of one Contracting Party whose investment has been expropriated challenges the amount of the compensation, such national or company may negotiate it with the other Contracting Party which adopted the expropriatory measures.

(iii) If no agreement is reached within six months from the commencement of the negotiation, the competent courts of the other Contracting Party taking the expropriatory measures or an international arbitral tribunal shall, upon the request of such national or company of one Contracting Party, review the amount of the compensation.

(iv) The international arbitral tribunal mentioned above shall be especially constituted in the following way: each party concerned shall appoint an arbitrator. The two arbitrators shall appoint an arbitrator as Chairman, who is a national of a third State which shall have diplomatic relations with both Contracting Parties. The arbitrators shall be appointed within two months and the Chairman within four months from the date when one party concerned notifies the other party of its submission of the dispute to arbitration.

If the necessary appointments are not made within the period specified in the previous Paragraph, either party may, in the absence of any other agreement, request the chairman of the International Arbitration Institute of the Stockholm Chamber of Commerce to make the necessary appointments.

The arbitral tribunal shall determine its own arbitral procedure with reference to the "Convention on the Settlement of Investment Disputes Between States and Nationals of Other States" done at Washington on March 18, 1965. The decision of the arbitral tribunal

shall be final and binding, and shall be enforceable in accordance with domestic laws. The arbitral tribunal shall state the basis of its decision and state reasons upon the request of either party concerned.

Each party concerned shall bear the cost of its own arbitrator and its representation in the arbitral proceedings. The cost of the Chairman in discharging his arbitral function shall be borne equally by the parties concerned.

3. Any other dispute over an investment between one Contracting Party and a national or company of the other Contracting Party shall be settled through the local remedies of the one Contracting Party under its laws and regulations. But such provisions shall not exclude both Contracting Parties from using the procedures specified in Article VIII where a dispute concerns the interpretation or application of this Agreement.

4. This Agreement shall also apply to investments made by nationals or companies of one Contracting Party in the maritime zone or on the Continental Shelf where the other Contracting Party exercises its sovereignty, sovereign rights or jurisdiction.

Done in duplicate at Beijing, on November 21, 1984 in the Chinese, Norwegian and English language, all texts being equally authentic. In case of divergencies of interpretation the English text shall prevail.

(Zhao Ziyang)

(Kare Willoch)

For the Government of the People' Republic
of China

For the Government of the Kingdom of
Norway