

AGREEMENT ON THE MUTUAL PROTECTION OF INVESTMENTS

The Government of the Kingdom of Sweden and the Government of the People's Republic of China,

Desiring to maintain fair and equitable treatment of investments by investors of one Contracting State in the territory of the other Contracting State,

Have agreed as follows:

Article 1

For the purpose of this Agreement:

(1) The term "investment" shall comprise every kind of asset invested by investors of one Contracting State in the territory of the other Contracting State in accordance with the laws and regulations of that State, and more particularly, though not exclusively,

- (a) movable and immovable property as well as any other rights in rem, such as mortgage, lien, pledge, usufruct and similar rights;
- (b) shares or other kinds of interest in companies;
- (c) title to money or any performance having an economic value;
- (d) copyrights, industrial property rights, technical processes, trade-names and good-will; and
- (e) such business-concessions under public law or under contract, including concessions regarding the prospecting for, or the extraction or winning of natural resources, as give to their holder a legal position of some duration.

(2) The term "investor" shall mean:

In respect of Sweden, any individual who is a citizen of Sweden according to Swedish law as well as any legal person with its seat in Sweden or with a pre-dominating Swedish interest;

in respect of the People's Republic of China, any company, other legal person or citizen of China authorized by the Chinese Government to make an investment.

Article 2

(1) Each Contracting State shall at all times ensure fair and equitable treatment to the investments by investors of the other Contracting State.

(2) Investments by investors of either Contracting State in the territory of the other Contracting State shall not be subjected to a treatment less favourable than that accorded to investments by investors of third States.

(3) Notwithstanding the provisions of paragraph (2) of this Article, a Contracting State, which has concluded with one or more other States an agreement regarding the formation of a customs union or a free-trade area, shall be free to grant a more favourable treatment to investments by investors of the State or States, which are also parties to the said agreement, or by investors of some of these States. A Contracting State shall also be free to grant a more favourable treatment to investments by investors of other States, if this is stipulated under bilateral agreements concluded with such States before the date of the signature of this Agreement.

Article 3

(1) Neither Contracting State shall expropriate or nationalize, or take any other similar measure in regard to, an investment made in its territory by an investor of the other Contracting State, except in the public interest, under due process of law and against compensation, the purpose of which shall be to place the investor in the same financial position as that in which the investor would have been if the expropriation or nationalization had not taken place. The expropriation or nationalization shall not be discriminatory and the compensation shall be paid without unreasonable delay and shall be convertible and freely transferable between the territories of the Contracting States.

(2) The provisions of paragraph (1) shall also apply to the current income from an investment as well as, in the event of liquidation, to the proceeds from the liquidation.

any
a
1

Article 4

Each Contracting State shall, subject to its laws and regulations, allow without undue delay the transfer in any convertible currency of:

- tors
- ate
be
ed
- h
-
e
- ur-
- (a) the net profits, dividends, royalties, technical assistance and technical service fees, interest and other current income, accruing from any investment by an investor of the other Contracting State;
 - (b) the proceeds of the total or partial liquidation of any investment by an investor of the other Contracting State;
 - (c) funds in repayment of borrowings which both Contracting States have recognized as investment; and
 - (d) the earnings of nationals of the other Contracting State who are allowed to work in connection with an investment in its territory.

Article 5

If a Contracting State makes a payment to an investor under a guarantee it has granted in respect of an investment in the territory of the other Contracting State, that Contracting State shall, without prejudice to the rights of the former Contracting State under Article 6, recognize the transfer of any right or title of such investor to the former Contracting State and the subrogation of the former Contracting State to any such right or title. The subrogation shall concern the claim of the investor from which shall be deducted any debts which the investor may have to the other Contracting State.

Article 6

(1) Disputes between the Contracting States concerning the interpretation or application of this Agreement shall, if possible, be settled by negotiations between the Governments of the two Contracting States.

(2) If the dispute cannot thus be settled it shall, upon the request of either Contracting State, be submitted to an arbitral tribunal.

(3) Such arbitral tribunal shall be established in each individual case, each Contracting State appointing one member, and those two members shall then agree upon a national of a third State as their Chairman to be appointed by the Governments of the two Contracting States. Such members shall be appointed within two months, and such Chairman within three months, after either Contracting State has made known to the other Contracting State that it wishes the dispute to be submitted to an arbitral tribunal.

(4) If the periods specified in paragraph (3) have not been observed, either Contracting State may, in the absence of any other relevant arrangement, invite the Secretary-General of the United Nations to make the necessary appointments. If the Secretary-General is a national of either Contracting State or if he is otherwise prevented from discharging the said function, the Under Secretary-General for Legal Affairs shall be invited to make the necessary appointments.

(5) The arbitral tribunal shall reach its decision by a majority of votes. Such decisions shall be binding. Each Contracting State shall bear the cost of its own member and of its counsel in the arbitral proceedings; the cost of the Chairman and the remaining costs shall be borne in equal parts by both Contracting States. The arbitral tribunal may make a different regulation concerning costs. In all other respects, the arbitral tribunal shall determine its own procedure.

Article 7

Nothing in this Agreement shall prejudice any rights or benefits accruing under national or international law to the interests of a national or a company of one Contracting State in the territory of the other Contracting State.

Article 8

This Agreement shall apply to all investments made after July 1, 1979.

Article 9

(1) This Agreement shall enter into force immediately upon signature.

(2) This Agreement shall remain in force for a period of fifteen years and shall continue in force thereafter unless, after the expiry of the initial period of fourteen years, either Contracting State notifies in writing the other Contracting State of its intention to terminate this Agreement. The notice of termination shall become effective one year after it has been received by the other Contracting State.

(3) In respect of investments made prior to the date when the notice of termination of this Agreement becomes effective, the provisions of Articles 1 to 8 shall remain in force for a further period of fifteen years from that date.

Done in Beijing on March 29, 1982, in two originals in the Swedish, Chinese and English languages, all texts being equally authentic.

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

Beijing, March 29, 1965

Your Excellency:

On the occasion of the signing of the agreement between the Government of the Kingdom of Sweden and the Government of the People's Republic of China on the mutual protection of investments, I have the honor to refer to the following understanding reached between our two delegations during negotiations.

As the People's Republic of China has not acceded to the Washington Convention of March 18, 1965 on the Settlement of Investment Disputes between States and Nationals of Other States, the delegations found it impossible to include in the agreement any provision covering the settlement of disputes between a contracting State and an investor from another Contracting State. The delegations were, however, in agreement that, in the event that the People's Republic of China should in future accede to the Washington Convention, the agreement will be supplemented with a supplementary agreement on a binding system for the settlement of disputes within the framework of the International Centre for Settlement of Investment Disputes.

The Swedish Government accepts this understanding, and I should be grateful to receive your assurance that this understanding can also be accepted by the Government of the People's Republic of China.

(s) Sten Sundfeldt
Ambassador of Sweden

This is to certify that the above copy is identical with the original.

(s) Gun von Krusenstjern
Assistant

Vice Minister Wei Yuming
Ministry for Economic Affairs
and Trade with Other Countries

Beijing