Agreement

between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Panama for the Promotion and Protection of Investments

Panama City, 7 October 1983

[Instruments of ratification were exchanged on 7 November 1985 and the Agreement entered into force on that date]

Presented to Parliament by the Secretary of State for Foreign and Commonwealth Affairs by Command of Her Majesty February 1986

LONDON HER MAJESTY'S STATIONERY OFFICE £2.30 net
AGREEMENT


The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Panama;

Underscoring the importance of creating favourable conditions for greater investment by companies of one state in the territory of the other state;

Stating that the encouragement and reciprocal protection under this Agreement of such investments will be conducive to the promotion of individual business initiative and will increase prosperity in both countries;

Agreed as follows:

ARTICLE 1

Definitions

(1) The purpose of this Agreement—

1) "Investments" means every kind of asset and in particular includes:
   a) movable and immovable property and any other property rights such as mortgages, liens or pledges;
   b) shares, stock and debentures of companies or interest in the property of such companies;
   c) claims to money or to any performance under contract having financial value;
   d) intellectual property rights and goodwill;
   e) business concessions conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources;
   f) "return" means the amounts yielded by an investment and in particular includes profit, interest, capital gains, dividends, royalties and fees;

2) "Nationals" means:
   a) in respect of the Republic of Panama: natural persons deriving their status as nationals of the Republic of Panama from the constitution of Panama;
   b) in respect of the United Kingdom: natural persons deriving their status as United Kingdom nationals from the law in force in the United Kingdom;

3) "Companies" means:
AGREEMENT


The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Panama;

Desiring to create favourable conditions for greater investment by nationals and companies of one state in the territory of the other state;

Recognising that the encouragement and reciprocal protection under this Agreement of such investments will be conducive to the development of individual business initiative and will increase prosperity in

Has agreed as follows:

ARTICLE 1 Definitions

For the purpose of this Agreement—

(a) "Investments" means every kind of asset and in particular includes:

(i) movable and immovable property and any other property rights, such as mortgages, liens or pledges;

(ii) shares, stock and debentures of companies or interest in the property of such companies;

(iii) shares in money or to any performance under contract having financial value;

(iv) intellectual property rights and goodwill;

(v) concessions conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources;

(vi) "Yields" means the amounts yielded by an investment and in particular includes profit, interest, capital gains, dividends, royalties and similar entrepreneurial income;

(c) "national" means:

(i) in respect of the Republic of Panama: natural persons deriving "national" status as nationals of the Republic of Panama from the Constitution of Panama;

(ii) in respect of the United Kingdom: natural persons deriving "national" status as United Kingdom nationals from the law in force in the United Kingdom;

(d) "companies" means:

(i) in respect of the Republic of Panama: all those juridical persons constituted in accordance with legislation in force in Panama.
as well as companies and associations with or without personality which have their domicile in the Republic of Panama, excepting State-owned enterprises.

(ii) in respect of the United Kingdom: corporations, associations incorporated or constituted under the law in any part of the United Kingdom or in any territory to which this Agreement is extended in accordance with Article 10;

(e) "territory" means:

(i) in respect of the Republic of Panama: all the territory of the Republic of Panama;

(ii) in respect of the United Kingdom: Great Britain and Northern Ireland and any territory to which this Agreement is extended in accordance with the provisions of Article 10.

ARTICLE 2

Promotion, Treatment and Protection of Investments

(1) Each Contracting Party shall encourage and create conditions for nationals or companies of the other Contracting Party to invest capital in its territory and, subject to its right to exercise any other right conferred by its laws, shall admit such capital.

(2) Investment of nationals or companies of either Contracting Party shall at all times be accorded fair and equitable treatment and full protection and security in the territory of the other Contracting Party. Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment or disposal of investments in its territory of nationals or companies of the other Contracting Party. Each Contracting Party shall observe any treaty obligations it may have entered into with regard to investments of nationals or companies of the other Contracting Party.

ARTICLE 3

National Treatment and Most-favoured-nation Provisions

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

(2) Neither Contracting Party shall in its territory subject nationals or companies of the other Contracting Party, as regards their management, maintenance, use, enjoyment or disposal of their investments, to treatment less favourable than that which it accords to its own nationals or companies or to nationals or companies of any third State.
provisions of this Article shall not be construed so as to extend to the nationals or companies of one Contracting Party to extend to the nationals or companies of the other Contracting Party, or to any treatment, preference or privilege resulting from any future customs union or similar international agreement or arrangement relating wholly or in any domestic legislation relating wholly or in part to taxation or any domestic legislation relating wholly or in part to taxation or any domestic legislation in force at the time of signature of this Agreement relating to specific economic activities reserved to nationals or companies of any third State, as specified in the Annex to this Agreement.

ARTICLE 4
Compensation for Losses

Investments of nationals or companies of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or conflict, revolution, a state of national emergency, revolt, or riot in the territory of the latter Contracting Party shall be treated, as regards restitution, compensation or other settlement, no less favourable than the latter Contracting Party accords to its own nationals or to nationals or companies of any third State, and in the event of losses suffered resulting from requisitioning or from requisitioning or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for a public or social purpose against prompt, adequate and effective compensation, and in conformity with the internal law. Such compensation shall be made without delay, and be freely transferable. No later than the time of the expropriation, adequate provision shall be made for the assessment and payment of the compensation. The legality of the expropriation and the adequacy of the compensation shall be established by due process of law in the Contracting Party making the expropriation.
(2) If either Contracting Party expropriates the investment of a company duly incorporated, constituted or otherwise organized in the territory, and if nationals or companies of the other Contracting Party, directly or indirectly, own, hold or have other rights with respect to equity of such company, then the Contracting Party within whose territory the expropriation occurs shall ensure that nationals or companies of the other Contracting Party receive compensation in accordance with the provisions of the preceding paragraph.

ARTICLE 6
Repatriation of Investments and Returns

Each Contracting Party shall in respect of investments of nationals or companies of the other Contracting Party transfer to the country where they reside any investment they hold subject to the right of each Contracting Party in exceptional payment difficulties and for a limited period to exercise equitable good faith powers conferred by its laws.

ARTICLE 7
Settlement of Investment Disputes

Disputes between a national or company of one Contracting Party concerning an obligation of the other Contracting Party concerning an investment of the former in relation to an investment of the latter shall be settled amicably, subject to the right of each Contracting Party to refer the dispute to arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law. The parties may agree to modify those Rules.

ARTICLE 8
Disputes between the Contracting Parties

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should, if possible, be settled first instance through discussion between experts representing the Contracting Parties and failing that, through the diplomatic channel.

(2) If a dispute between the Contracting Parties cannot thus be settled, it shall 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. These two members shall then select a national of a third State with the approval of the two Contracting Parties so appointed. The Chairman of the Tribunal shall be appointed within two months of the date of appointment of the other two members.
ARTICLE 9

Subrogation

If a Contracting Party makes payments under an indemnity it has given by virtue of subrogation to exercise the rights and enforce the claims of such a party.

If the former Contracting Party (or its designated Agency) shall accordingly if the former Contracting Party or credits thereof by assignment under the terms of an agreement, the former Contracting Party shall be accorded in respect thereof not less favourable than that accorded to the funds of companies of the latter Contracting Party or of any third State deriving investment activities similar to those in which the party indemnified was engaged. Such amounts and credits shall be freely available to the Contracting Party concerned for the purpose of meeting its expenditure in the territory of the other Contracting Party.
ARTICLE 10
Territorial Extension

At the time of ratification of this Agreement, or at any time thereafter, provisions of this Agreement may be extended to such territories for the purposes of international relations the Government of the United Kingdom, responsible as may be agreed between the Contracting Parties in an Exchange of Notes.

ARTICLE 11
Entry into Force

This Agreement shall be ratified and shall enter into force on the exchange of instruments of ratification.

ARTICLE 12
Duration and Termination

This Agreement shall remain in force for a period of ten years after it shall continue in force until the expiration of twelve months from the date on which either Contracting Party shall have given written notice of termination to the other. Provided that in respect of investments whilst the Agreement is in force, its provisions shall continue in respect to such investments for a period of ten years, after the said termination.

In witness whereof the undersigned, duly authorised respectively, have signed this Agreement.

Done in duplicate at Panama City this seventh day of October nineteen eighty-five, the English and Spanish languages, both texts being equally authentic.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

T. H. STEGGLE

For the Government of Panama:

CARLOS HOFFMAN

ANNEX

Pursuant to Article 3 (3) (c), the Republic of Panama states that sectors and activities which are constitutional and legal are excluded from the effect of this Agreement:

Communications; agencies of foreign companies; distribution of imported products; retail trade; insurance; state-owned enterprises; energy production; the professions; customs brokerage; banking; the right to use resources, including fishing; the production of hydro-electric power; the ship of land within 10 kilometers of the Panamanian frontier.

(1) The United Kingdom ratified the Agreement on behalf of the Bailiwicks of Guernsey, the Isle of Man and Hong Kong.