

Protocol
between
the Government of the Czech Republic
and the Government of the Democratic People's Republic of Korea
on the Amendments to the Agreement
between the Government of the Czech Republic
and the Government of the Democratic People's Republic of Korea
on the Promotion and Reciprocal Protection of Investments

The Government of the Czech Republic and the Government of the Democratic People's Republic of Korea (hereinafter referred to as "Contracting Parties") have agreed to amend the Agreement between the Government of the Czech Republic and the Government of the Democratic People's Republic of Korea on the Promotion and Reciprocal Protection of Investments, signed at Pyongyang, on February 27, 1998 (hereinafter referred to as "the Agreement"), according to the paragraph 4, Article 12 of the Agreement, as follows:

Article 1

In Article 3 of the Agreement, paragraph 3 is deleted and it is replaced by new paragraphs 3 to 5, which read 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.

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,”.

In the paragraph 3, Article 6 of the Agreement, the last sentence is deleted.

Article 3

After paragraph 2, Article 8 of the Agreement, new paragraph 3 is inserted, which reads as follows:

- “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.”

Article 4

A new Article 10 is added after Article 9 in the Agreement and it reads as follows:

“Essential Security Interests

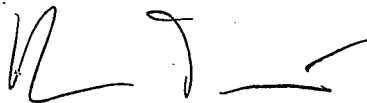
This Agreement shall not preclude the application by either Contracting Party of measures necessary for the maintenance or restoration of international peace or security, or the protection of its own essential security interests which may include interests deriving from its membership of a customs, economic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

The subsequent Articles in the Agreement are re-numbered as Articles 11, 12 and 13.

Article 5

The Protocol shall enter into force on the ninetieth day after the date of the later notification by which the Contracting Parties shall 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 PYONGYANG on 17. DECEMBER 2008 in two originals, each in the Czech, Korean 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 Democratic People's Republic of Korea**