

AGREEMENT BETWEEN THE ROMAN REPUBLIC AND THE KINGDOM OF PERGAMON

The Roman Republic and the Kingdom of Pergamon (hereinafter referred to as the 'Contracting Parties');

Desiring to create favourable conditions for greater investment of one Contracting Party in the area of the other;

Recognising that the encouragement and reciprocal protection under agreement of such investments will be conducive to the stimulation of individual business initiative and will increase prosperity in both areas;

Have agreed as follows:

ARTICLE 1

Definitions

For the purposes of this Agreement

(1) "area": means, in addition to the areas lying within the land boundaries of each Contracting Party, the maritime zones over which the Contracting Parties have sovereignty or exercise sovereign or jurisdictional rights in accordance with international law;

(2) "companies" means: corporations, partnerships and associations, with or without legal personality, incorporated or constituted under the law in force in the area of one Contracting Party;

(3) "forces" means: the armed forces of a Contracting Party;

(4) "freely convertible" means free of all currency exchange controls and transferable abroad in any currency;

(5) "investment" means every kind of asset, held or invested directly or indirectly, and in particular, though not exclusively includes:

(a) movable and immovable property and any other property

- rights such as mortgages, liens, or pledges;
- (b) shares in and stock, bonds and debentures of a company and rights derived therefrom;
- (c) claims to money or other assets or to any performance under contract having a financial value;
- (d) business concessions conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources;

A change in the form in which assets are invested does not affect their character as investments;

(6) “investors” means: (i) physical persons who are nationals of a Contracting Party; (ii) companies as defined in paragraph 2(b) of this article;

(7) “returns” means the amounts yielded by an investment and in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and fees or payment for assistance and technical services.

ARTICLE 2

Promotion and Protection of Investments and Returns

(1) Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make investments in its area, and, subject to its right to exercise powers conferred by its laws, shall admit such investments.

(2) Investments and returns of investors of each Contracting Party shall at all times be accorded fair and equitable treatment. In addition, each Contracting Party shall accord to such investments full physical security and protection. Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment or disposal of investments in its area of investors of the other Contracting Party. Each Contracting Party shall observe any obligation it may have entered into with regard to investments of investors of the other Contracting Party.

ARTICLE 3

Treatment of Investments

(1) Each Contracting Party shall in its area accord investments or returns of investors of the other Contracting Party treatment and protection not less favourable than that which it accords to investments or returns of its own investors or to investments or returns of investors of any other State, whichever is more favourable to the investor concerned.

(2) Each Contracting Party shall in its area accord investors of the other Contracting Party, as regards their management, maintenance, use, enjoyment or disposal of their investments, treatment not less favourable than that which it accords to its own investors or to investors of any other State, whichever is more favourable to the investor concerned.

(3) This Agreement shall not prevent an investor of one Contracting Party from taking advantage of any law of the other Contracting Party or any other obligations between the Contracting Parties which are more favourable than the provisions of this Agreement.

ARTICLE 4

Compensation for Losses

(1) Investors of one Contracting Party whose investments in the area of the other Contracting Party suffer losses owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot in the area of the latter Contracting Party shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, no less favourable than that which the latter Contracting Party accords to its own investors or investors of any other State. Resulting payments shall be freely convertible.

(2) Without prejudice to paragraph (1) of this Article, investors of one Contracting Party who in any of the situations referred to in that paragraph suffer losses in the area of the other Contracting Party resulting from

- (a) requisitioning of their property by its forces or authorities, or
- (b) destruction of their property by its forces or authorities

which was not caused in combat action or was not required by the necessity of the situation,

shall be accorded restitution or reasonable compensation. Resulting payments shall be freely convertible.

ARTICLE 5

Expropriation

(1) Investors of either Contracting Party shall not be deprived of their investments nor subjected to any measures having effect equivalent to such deprivation or limiting the enjoyment of the investment in the area of the other Contracting Party except lawfully, on a non discriminatory basis, for a public purpose related to the internal needs of that Party, and against compensation. Where that value cannot be readily ascertained, the compensation shall be determined in accordance with generally recognised principles of valuation and equitable principles taking into account the capital invested, depreciation, capital already repatriated, replacement value, currency exchange rate movements and other relevant factors.

(2) The investor affected shall have a right, under the law of the Contracting Party making the deprivation, to prompt review by a judicial or other independent authority of that Party, of the investor's case and of the valuation of the investment in accordance with the principles set out in this paragraph.

ARTICLE 6

Returns and Taxes

(1) Each Contracting Party shall in respect of investments guarantee to investors of the other Contracting Party the unrestricted right to transfer their investments and returns abroad.

(2) This right shall not relieve investors of their obligation to pay taxes. Nothing in this Treaty shall create rights or impose obligations with respect to taxation measures of the Contracting Parties.

(3) Transfers of currency shall be effected without undue delay in any

convertible currency. A transfer shall be deemed to have been made without undue delay if effected within such period as is normally required for the completion of transfer formalities. Unless otherwise agreed by the investors transfers shall be made at the most favourable rate of exchange applicable on the date of transfer.

ARTICLE 7

Subrogation

(1) If one Contracting Party or its designated Agency makes a payment under, an indemnity given in respect of an investment in the area of the other Contracting Party, the latter Contracting Party shall recognise the assignment to the former Contracting Party or its designated Agency by law or by legal transaction of all the rights and claims of the indemnified investor and that the former Contracting Party or its designated Agency is entitled to exercise such rights and enforce such claims by virtue of subrogation, to the same extent as that investor.

(2) The former Contracting Party or its designated Agency shall be entitled in all circumstances to the same treatment in respect of the rights and claims acquired by it by virtue of the assignment and any payments received in pursuance of those rights and claims as the indemnified investor was entitled to receive by virtue of this Agreement in respect of the investment concerned and its related returns.

(3) Any payment received by the former Contracting Party or its designated Agency in pursuance of the rights and claims acquired shall be freely convertible and transferable in accordance with the relevant provisions of this Agreement.

ARTICLE 8

Special Commitment

Investments having formed the subject of a special commitment of one Contracting Party, with respect to the nationals or companies of the other Contracting Party, shall be governed, without prejudice to the provisions of this Agreement, by the terms of the said commitment if the latter includes provisions more favorable than those of this Agreement.

ARTICLE 9

Application

The provisions of this Agreement shall apply to any investment of an investor of one Contracting Party in the area of the other Contracting Party whether made before or after the date of entry into force of this Agreement.

ARTICLE 10

Settlement of Investments Disputes

(1) Any dispute that may arise between an investor of one Contracting Party and the other Contracting Party in connection with an investment in the territory of the latter Contracting Party, will be subject to negotiations between the Contracting Parties in dispute.

(2) If any dispute between an investor of one Contracting Party and the other Contracting Party cannot be settled in such a manner within 6 months from the day on which a written claim was submitted, the investor shall be entitled to refer the matter to the International Centre for Settlement of Investment Disputes (ICSID), having regard to the relevant provisions of the Convention on the Settlement of Investment Disputes between States and Nationals of other States, or the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) as then in force. The parties may agree in writing to modify those Rules.

ARTICLE 11

Settlement of Disputes between the Contracting Parties

(1) If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement, the Contracting Parties shall in the first place try to settle it by negotiation.

(2) If the Contracting Parties fail to reach a settlement of the dispute by negotiation, it may be referred by them to such person or body as they may agree on or, at the request of either Contracting Party, shall be submitted

for decision to a tribunal of three arbitrators which shall be constituted in the following manner:

- (a) within sixty days after receipt of a request for arbitration, each Contracting Party shall appoint one arbitrator. A national of a State which can be regarded as neutral in relation to the dispute, who shall act as President of the tribunal, shall be appointed as the third arbitrator by agreement between the two arbitrators, within sixty days of the appointment of the second;
 - (b) if within the time limits specified above any appointment has not been made, either Contracting Party may request the President of the International Court of Justice, in a personal and individual capacity, to make the necessary appointment within thirty days. If the President considers that he is a national of a State which cannot be regarded as neutral in relation to the dispute, the Vice-President or the most senior member who is not disqualified on that ground shall make the appointment.
- (3) Except as hereinafter provided in this Article or as otherwise agreed by the Contracting Parties, the tribunal shall determine the limits of its jurisdiction and establish its own procedure.
- (4) Except as otherwise agreed by the Contracting Parties or prescribed by the tribunal.) each Contracting Party shall submit a memorandum within forty five days after the tribunal is fully constituted. Replies shall be due sixty days later. The tribunal shall hold a hearing at the request of either Contracting Party, or at its discretion, within thirty days after replies are due.
- (5) The tribunal shall decide on the basis of respect for the law. Before the tribunal decides, it may, at any stage of the proceedings, propose to the Contracting Parties that the dispute be settled amicably.
- (6) The tribunal shall attempt to give a written decision within thirty days after completion of the hearing or, if no hearing is held, after the date both replies are submitted. The decision shall be taken by a majority vote.
- (7) The Contracting Parties may submit requests for clarification of the decision within fifteen days after it is received and such clarification shall

be issued within fifteen days of such request.

(8) The decision of the tribunal shall be binding on the Contracting Parties.

(9) Each Contracting Party shall bear the costs of the arbitrator appointed by it. The other costs of the tribunal shall be shared equally by the Contracting Parties including any expenses incurred by the Member of the International Court of Justice in implementing the procedures in paragraph 2(b) of this Article.

ARTICLE 12

Entry into Force

This Agreement shall enter into force thirty days after the date on which the Contracting Parties have notified each other in writing that their respective requirements for the entry into force of this Agreement have been complied with.

ARTICLE 13

Duration and Termination

(1) This Agreement shall remain in force for a period of fifteen years. Unless notice of termination has been given by either Contracting Party at least twelve months before the date of expiry of its validity, the Agreement shall be extended tacitly for periods of ten years, each Contracting Party reserving the right to terminate the Agreement upon notice of at least twelve months before the date of expiry of the current period of validity.

(2) In respect of investments made before the date of the termination of the present Agreement the provisions thereof shall continue to be effective for a further period of fifteen years from that date.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

Done in duplicate at Rome in year of the consulship of Nobilior and Luscus [153 BC].

Attalos Philometor, son of Eumenes
representing
King Attalos II Philadelphos

SPQR