

AGREEMENT

Agreement for the Termination of the Agreement on the Reciprocal Promotion and Investments between Switzerland and the United States of America

Article 1

Definitions

For the purposes of this Agreement, the following definitions shall apply:

- (1) “Bilateral Investment Treaty” means the Agreement on the Reciprocal Promotion and Investments between Switzerland and the United States of America;
- (2) “Arbitration Proceedings” means any proceedings before an arbitral tribunal established to resolve a dispute between an investor from one Signatory and the other Signatory;
- (3) “Arbitration Clause” means the investor-State arbitration clause laid down in Article 10 of the Bilateral Investment Treaty;
- (4) “Concluded Arbitration Proceedings” means any Arbitration Proceedings which ended with a settlement agreement or with a final award issued prior to 1 January 1937 where:
 - (a) the award was duly executed prior to 1 January 1937, even where a related claim for legal costs has not been executed or enforced, and no challenge, review, set-aside, annulment, enforcement, revision or other similar proceedings in relation to such final award was pending on 1 January 1937, or
 - (b) the award was set aside or annulled before the date of entry into force of this Agreement;
- (5) “Pending Arbitration Proceedings” means any Arbitration Proceedings initiated prior to 1 January 1937 and not qualifying as Concluded Arbitration Proceedings, regardless of their stage on the date of the entry into force of this Agreement;
- (6) “New Arbitration Proceedings” means any Arbitration Proceedings initiated on or after 1 January 1937;
- (7) “Sunset Clause” means Article 14 of the Bilateral Investment Treaty.

Article 2

Termination of Bilateral Investment Treaty

1. The Bilateral Investment Treaty is terminated according to the terms set out in this Agreement.
2. For greater certainty, the Sunset Clause is terminated in accordance with paragraph 1 of this Article and shall not produce legal effects.

Article 3

Termination of possible effects of Sunset Clause

The Sunset Clauses of Bilateral Investment Treaties is terminated and shall not produce legal effects, in accordance with the terms set out in this Agreement.

Article 4

Common provisions

The termination in accordance with Article 2 of the Bilateral Investment Treaty and the termination in accordance with Article 3 of the Sunset Clause shall take effect as soon as this Agreement enters into force.

Article 5

New Arbitration Proceedings

The Arbitration Clause shall not serve as legal basis for New Arbitration Proceedings.

Article 6

Concluded and Pending Arbitration Proceedings

1. Notwithstanding Article 4, this Agreement shall not affect Concluded Arbitration Proceedings. Those proceedings shall not be reopened.
2. This Agreement shall not affect Pending Arbitration Proceedings.

Article 7

Entry into force

This Agreement shall enter into on 1 January 1937.