

Protocol
between the Czech Republic and the Republic of India
on the amendment to the Agreement between the Czech Republic and the
Republic of India
for the Promotion and Protection of Investments,
signed on October 11, 1996 at Prague

The Czech Republic and the Republic of India (hereinafter referred to as “Contracting Parties”) have agreed to amend the Agreement between the Czech Republic and the Republic of India for the Promotion and Protection of Investments, signed on October 11, 1996 at Prague (hereinafter referred to as “the Agreement”) as follows:

ARTICLE 1

Paragraph 3 of Article 3 of the Agreement is deleted and replaced by new paragraphs 3 to 5 , as follows:

„(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to advantages accorded by a Contracting Party pursuant to its obligations as a member of any existing or future customs, economic, or monetary union, a common market or a free trade area.

(4) The obligations of a Contracting Party as a member of a customs, economic, or monetary union, a common market or a free trade area also include obligations arising out of an international agreement or reciprocity agreement of that customs, economic or monetary union, common market or a free trade area.

(5) The provisions of paragraphs (1) and (2) of this Article 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, the following is added as paragraph (4):

„(4) Nothing in this Agreement shall prevent either Contracting Party from applying or maintaining in good faith and in an equitable and non discriminatory manner safeguard measures, for a limited period of time, which may be taken in exceptional circumstances of serious macroeconomic difficulties or serious difficulties for the balance of payments or threat thereof to that Contracting Party or to any customs, economic and monetary union, common market, free trade area or regional economic organization, to which a Contracting Party is or may become a party.”

ARTICLE 3

Article 12 of the Agreement is deleted and replaced by new Article 12, as follows :

„Essential Security Interests

Nothing in this Agreement shall be construed to prevent either Contracting Party from taking any action in good faith that it considers necessary for the protection of its essential security interests or from application of measures arising from the Contracting Party's membership of any existing or future customs, economic, or monetary union, a common market or a free trade area. These actions or measures may include particularly, though not exclusively those:

- (a) relating to penal and criminal offences;
- (b) relating to traffic in arms, ammunition and implements of war and to such traffic in other goods, materials, services and technology as is carried on directly or indirectly for the purpose of supplying a military establishment; or
- (c) taken in time of war or other emergency in international relations; or
- (d) taken in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.”

ARTICLE 4

After Article 14, new Article 14 bis will be inserted, which reads as follows:

“Mutual Consultation

The Contracting Parties may, if necessary, consult each other on matters concerning any amendment of this Agreement. The amendments shall be made by consensus and shall enter into force on the date of receipt of the last notification by which the Parties shall communicate each other that their internal legal procedures for its entry into force have been completed and shall remain in force so long as the Agreement shall remain in force.”

ARTICLE 5

The Protocol shall enter into force on the thirtieth day after the later notification by which the Contracting Parties 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 Prague on June 8th 2010 in two originals each in the Czech, Hindi and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For
the Czech Republic

Jan Málek
Deputy Minister of Finance

For
the Republic of India

Dinkar Prakash Srivastava
Ambassador Extraordinary and
Plenipotentiary of the Republic of India
to the Czech Republic