

No. 2021-0.569.642

Opening Note of the Republic of Austria

The Federal Ministry for European and International Affairs of the Republic of Austria presents its compliments to the Embassy of the Czech Republic in Vienna and has the honour to refer to the Note Verbale Ref. No. 3959-1/2018-VIDE dated 8 November 2018 by the Embassy of the Czech Republic in Vienna concerning the termination of the Agreement between the Republic of Austria and the Czech and Slovak Federal Republic for the Promotion and Protection of Investments.

In the light of the above and with reference to the Judgment of the Court of Justice of the European Union in Case C-284/16, Slovak Republic v. Achmea BV of 6 March 2018, the Federal Ministry for European and International Affairs of the Republic of Austria has the honour to propose the conclusion of the following

"Agreement between the Republic of Austria and the Czech Republic on the Termination of the Agreement between the Republic of Austria and the Czech and Slovak Federal Republic for the Promotion and Protection of Investments (hereinafter referred to as the "Termination Agreement")

1. The Agreement between the Republic of Austria and the Czech and Slovak Federal Republic for the Promotion and Protection of Investments, signed on 15 October 1990 in Vienna (hereinafter referred to as the "Investment Protection Agreement"), shall be terminated in accordance with the provisions set out in this Termination Agreement.

2. For greater certainty, the Parties expressly agree that Article 11 Paragraph 3 of the Investment Protection Agreement, which would extend the protection of investments made prior to the date of termination, shall also be terminated and thus shall not produce any legal effects.
3. This Termination Agreement shall not affect concluded arbitration proceedings. Those proceedings shall not be reopened."

The Federal Ministry for European and International Affairs of the Republic of Austria proposes that in case the Czech Republic accepts the abovementioned proposal, this Note Verbale together with the reply Note of the Czech Republic shall constitute the Termination Agreement, which is authentic in the English language only.

The Termination Agreement shall enter into force on the first day of the first month following the date of the receipt of the latter of the notifications by the Parties that the respective internal procedures for the entry into force of the Termination Agreement have been fulfilled.

The Federal Ministry for European and International Affairs of the Republic of Austria avails itself of this opportunity to renew to the Embassy of the Czech Republic in Vienna the assurances of its highest consideration.

Vienna, 13 August 2021

To the Embassy of the
Czech Republic in Vienna
Penzingerstrasse 11-13
1140 Vienna

The Embassy of the Czech Republic in Vienna presents its compliments to the Federal Ministry for European and International Affairs of the Republic of Austria and has the honour to refer to the Note Verbale No. 2021-0.569.642 dated 13 August 2021 of the Federal Ministry for European and International Affairs of the Republic of Austria, which reads as follows:

“The Federal Ministry for European and International Affairs of the Republic of Austria presents its compliments to the Embassy of the Czech Republic in Vienna and has the honour to refer to the note Ref. No. 3959-1/2018-VIDE dated 8 November 2018 by the Embassy of the Czech Republic in Vienna concerning the termination of the Agreement between the Republic of Austria and the Czech and Slovak Federal Republic for the Promotion and Protection of Investments.

In the light of the above and with reference to the Judgment of the Court of Justice of the European Union in Case C-284/16, Slovak Republic v. Achmea BV of 6 March 2018, the Federal Ministry for European and International Affairs of the Republic of Austria has the honour to propose the conclusion of the following

“Agreement between the Republic of Austria and the Czech Republic on the Termination of the Agreement between the Republic of Austria and the Czech and Slovak Federal Republic for the Promotion and Protection of Investments (hereinafter referred to as the “Termination Agreement”)

1. The Agreement between the Republic of Austria and the Czech and Slovak Federal Republic for the Promotion and Protection of Investments, signed on 15 October 1990 in Vienna (hereinafter referred to as the “Investment Protection Agreement”), shall be terminated in accordance with the provisions set out in this Termination Agreement.

2. For greater certainty, the Parties expressly agree that Article 11

Paragraph 3 of the Investment Protection Agreement, which would extend the protection of investments made prior to the date of termination, shall also be terminated and thus shall not produce any legal effects.

3. This Termination Agreement shall not affect concluded arbitration proceedings. Those proceedings shall not be reopened.”

The Federal Ministry for European and International Affairs of the Republic of Austria proposes that in case the Czech Republic accepts the abovementioned proposal, this Note Verbale together with the reply note of the Czech Republic shall constitute the Termination Agreement, which is authentic in the English language only.

The Termination Agreement shall enter into force on the first day of the first month following the date of the receipt of the latter of the notifications by the Parties that the respective internal procedures for the entry into force of the Termination Agreement have been fulfilled.

The Federal Ministry for European and International Affairs of the Republic of Austria avails itself of this opportunity to renew to the Embassy of the Czech Republic in Vienna the assurances of its highest consideration.”

The Embassy of the Czech Republic in Vienna has the honour to inform that the Czech Republic agrees to conclude the proposed Agreement between the Czech Republic and the Republic of Austria on the Termination of the Agreement between the Czech and Slovak Federal Republic and the Republic of Austria for the Promotion and Protection of Investments (hereinafter referred to as the “Termination Agreement”) and accepts that the Note Verbale No. 2021-0.569.642 dated 13 August 2021 of the Federal Ministry for European and International Affairs of the Republic of Austria and this Note Verbale shall constitute the Termination Agreement, which is authentic in the English language only.

The Termination Agreement shall enter into force on the first day of the first month following the date of the receipt of the latter of the notifications by the Parties that the respective internal procedures for the entry into force of the Agreement have been fulfilled.

The Embassy of the Czech Republic in Vienna avails itself of this opportunity⁷ to renew to Federal Ministry for European and International Affairs of the Republic of Austria the assurances of its highest consideration

Vienna, September 29, 2021

Ministry for European and International Affairs
of the Republic of Austria
Vienna