



Foreign and Commonwealth Office

London SW1A 2AH

5 April 1989

cc PC (2)
Zie Minister

Jean Charles,

adn
5/4.

Gorbachev Visit: Bilateral Agreements

/ I enclose English texts of the Investment Protection Agreement and of the two MOUs to be signed in Number 10 tomorrow.

I am copying this letter to Neil Thornton (DTI), Tom Jeffrey (DES) and Philip Mawer (Home Office). *ms*

Yours ever,

Richard Gozney

(R H T Gozney)
Private Secretary

C D Powell Esq
PS/10 Downing Street

AGREEMENT

BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND

AND

THE GOVERNMENT OF THE UNION OF THE SOVIET SOCIALIST REPUBLICS
FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Union of the Soviet Socialist Republics (hereinafter referred to as the "Contracting Parties");

Desiring to create favourable conditions for greater investment by investors of one State in the territory of the other State;

Recognising that the promotion and reciprocal protection under international agreement of such investments will be conducive to the stimulation of business initiative and will contribute to the development of economic relations between the two States;

Have agreed as follows:

ARTICLE 1

Definitions

For the purposes of this Agreement:

- (a) the term "investment" means every kind of asset and in particular, though not exclusively, includes:
 - (i) movable and immovable property and any other related property rights such as mortgages;
 - (ii) shares in, and stock, bonds and debentures of, and any other form of participation in, a company or business enterprise;
 - (iii) claims to money, and claims to performance under contract having a financial value;
 - (iv) intellectual property rights, technical processes, know-how and any other benefit or advantage attached to a business;
 - (v) rights, conferred by law or under contract, to undertake any commercial activity, including the search for, or the cultivation, extraction or exploitation of natural resources.

- (b) a change in the form in which assets are invested does not affect their character as investments;

- (c) the term "returns" means the amounts yielded by an investment and in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and fees;

(d) the term "investor" shall comprise with regard to either Contracting Party:

- (i) natural persons having the citizenship or nationality of that Contracting Party in accordance with its laws;
- (ii) any corporations, companies, firms, enterprises, organisations and associations incorporated or constituted under the law in force in the territory of that Contracting Party;

provided that that natural person, corporation, company, firm, enterprise, organisation or association is competent, in accordance with the laws of that Contracting Party, to make investments in the territory of the other Contracting Party;

(e) subject to Article 11 of this Agreement the term "territory" means:

- (i) in respect of the United Kingdom: the territory of Great Britain and Northern Ireland;
- (ii) in respect of the Union of the Soviet Socialist Republics: the territories of all the Union Republics;

as well as those maritime areas adjacent to the outer limit of the territorial sea of any of the above territories, over which the State concerned exercises, in accordance with international law, sovereign rights for the purpose of exploration and exploitation of the natural resources of such areas.

ARTICLE 2

Promotion and Protection of Investments

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

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

ARTICLE 3

Treatment of Investments

(1) Neither Contracting Party shall in its territory subject investments or returns of investors of the other Contracting Party to treatment less favourable than that which it accords to investments or returns of investors of any third State.

(2) Neither Contracting Party shall in its territory subject investors of the other Contracting Party, as regards their management, maintenance, use, enjoyment or disposal of their investments, to treatment less favourable than that which it accords to investors of any third State.

(3) Each Contracting Party shall, to the extent possible, accord, in accordance with its laws and regulations, the same treatment, as mentioned in paragraphs (1) and (2) of this Article and in Article 4 of this Agreement, to the investments and returns of investors of the other Contracting Party as it accords to the investments and returns of its own investors.

ARTICLE 4

Compensation for Losses

Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to any armed conflict, a state of national emergency or civil disturbances in the territory 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 investors of any third State. Resulting payments shall be made without delay and be freely transferable.

ARTICLE 5

Expropriation

(1) Investments of investors of either Contracting Party shall not be nationalised, expropriated or subjected to measures having effect equivalent to nationalisation or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for a purpose which is in the public interest and is not discriminatory and against the payment, without delay, of adequate and effective compensation. Such compensation shall amount to the real value of the investment expropriated immediately before the expropriation or before the impending expropriation became public knowledge, whichever is the earlier, shall be made within two months of the date of expropriation, after which interest at a normal commercial rate shall accrue until the date of payment, and shall be effectively realizable and be freely transferable. The investor affected shall have a right, under the law of the Contracting Party making the expropriation, to prompt review, by a judicial or other independent authority of that Party, of his or its case and of the valuation of his or its investment in accordance with the principles set out in this paragraph.

(2) Where a Contracting Party expropriates the assets of a company or enterprise which is incorporated or constituted under the law in force in any part of its own territory, and in which investors of the other Contracting Party have a shareholding, the provisions of paragraph (1) of this Article shall apply.

ARTICLE 6

Repatriation of Investments and Returns

(1) Each Contracting Party shall in respect of investments guarantee to investors of the other Contracting Party the unrestricted transfer to the country where they reside of their investments and returns, subject to the right of each Contracting Party in exceptional balance of payments difficulties and for a limited period to exercise equitably and in good faith powers conferred by its laws. Such powers shall not however be used to impede the transfer of profit, interest, dividends, royalties or fees; as regards investments and any other form of return, transfer of a minimum of 20 per cent a year is guaranteed.

(2) Transfers under paragraph 1 of this Article shall be effected without delay in the convertible currency in which the capital was originally invested or in any other convertible currency agreed by the investor and the Contracting Party concerned. Unless otherwise agreed by the investor with the Contracting Party concerned transfers shall be made at the rate of exchange applicable on the date of transfer pursuant to the exchange regulations in force of the Contracting Party in whose territory the investment was made.

ARTICLE 7

Exceptions

The provisions of Articles 3 and 4 of this Agreement shall not be construed so as to oblige one Contracting Party to extend to the investors of the other the benefit of any treatment, preference or privilege resulting from

(a) any existing or future customs union, organisation for mutual economic assistance or similar international agreement, whether multilateral or bilateral, to which either of the Contracting Parties is or may become a party, or

(b) any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation.

ARTICLE 8

Disputes between an Investor and the Host Contracting Party

1. This Article shall apply to any legal disputes between an investor of one Contracting Party and the other Contracting Party in relation to an investment of the former either concerning the amount or payment of compensation under Articles 4 or 5 of this Agreement, or concerning any other matter consequential upon an act of expropriation in accordance with Article 5 of this Agreement, or concerning the consequences of the non-implementation, or of the

incorrect implementation, of Article 6 of this Agreement.

2. Any such disputes which have not been amicably settled shall, after a period of three months from written notification of a claim, be submitted to international arbitration if either party to the dispute so wishes.

3. Where the dispute is referred to international arbitration, the investor concerned in the dispute shall have the right to refer the dispute either to:

(a) the Institute of Arbitration of the Chamber of Commerce of Stockholm; or

(b) an international arbitrator or ad hoc arbitration tribunal to be appointed by a special agreement or established under the Arbitration Rules of the United Nations Commission on International Trade Law; the arbitration shall be conducted under these Rules, unless the parties to the dispute agree in writing to modify them.

ARTICLE 9

Disputes between the Contracting Parties

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should, if possible, be settled through the diplomatic channel.

(2) If a dispute between the Contracting Parties cannot thus be settled, it shall upon the request of either Contracting

Party be submitted to an arbitral tribunal.

(3) Such an arbitral tribunal shall be constituted for each individual case in the following way. Within two months of the receipt of the request for arbitration, each Contracting Party shall appoint one member of the tribunal. Those two members shall then select a national of a third State who on approval by the two Contracting Parties shall be appointed Chairman of the tribunal. The Chairman shall be appointed within two months from the date of appointment of the other two members.

(4) If within the periods specified in paragraph (3) of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make any necessary appointments. If the President is a national of either Contracting Party or if he is otherwise prevented from discharging the said function, the Vice-President of the International Court of Justice shall be invited to make the necessary appointments. If the Vice-President is a national of either Contracting Party or if he too is prevented from discharging the said function, the Member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointments.

(5) The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be binding on both Contracting Parties. Each Contracting Party shall bear the cost of its own member of the tribunal and of its representation in the arbitral proceedings; the cost of the

Chairman and the remaining costs shall be borne in equal parts by the Contracting Parties. The tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the Contracting Parties, and this award shall be binding on both Contracting Parties. The tribunal shall determine its own procedure.

ARTICLE 10

Subrogation

(1) If one Contracting Party or its designated Agency makes a payment under an indemnity given in respect of an investment in the territory 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 party indemnified 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 the party indemnified, except any rights available to the investor by virtue of Article 8 of this Agreement.

(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 party indemnified was entitled to receive by virtue of this Agreement in respect of the investment concerned and its related returns.

(3) Any payments received by the former Contracting Party or its designated Agency in pursuance of the rights and claims acquired shall be freely available to the former Contracting Party for the purpose of meeting any expenditure incurred in the territory of the latter Contracting Party.

ARTICLE 11

Amendment to Territorial Provisions

At the time of entry into force of this Agreement, or at any time thereafter, the provisions of Article 1(e) of this Agreement may be amended in such manner as may be agreed between the Contracting Parties in an exchange of notes.

ARTICLE 12

Application of Agreement

This Agreement shall apply to all investments, whether made before or after its entry into force, but shall not apply to any dispute concerning an investment which arose, or any claim concerning an investment which was settled before its entry into force.

ARTICLE 13

Entry into force

Each Contracting Party shall notify the other in writing of the completion of the constitutional formalities required for the entry into force of this Agreement. This Agreement shall enter into force on the date of the latter of the two notifications.

ARTICLE 14

Duration and Termination

This Agreement shall remain in force for a period of fifteen years. Thereafter it shall continue in force until the expiration of twelve months from the date on which either Contracting Party shall have given written notice of termination to the other. Provided that in respect of investments made at any time before the termination of the Agreement, its provisions shall continue in effect with respect to such investments for a period of fifteen years after the date of termination and without prejudice to the application thereafter of the general rules of international law.

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

Done in duplicate at London this day of April 1989
in the English and Russian languages, both texts being equally
authoritative.

For the Government of
the United Kingdom of
Great Britain and
Northern Ireland:

For the Government of
the Union of the Soviet
Socialist Republics:

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND CONCERNING THE ERECTION OF A SCHOOL IN LENINAKAN (ARMENIAN SSR)

1. The Government of the United Kingdom of Great Britain and Northern Ireland, guided by humanitarian motives and sympathy for the people of the regions of the Armenian SSR which have fallen victim to natural disaster, declares its intention to design and construct a school for 400 pupils in Leninakan and to provide free of charge the furniture and equipment which the school needs.
2. The Government of the Union of Soviet Socialist Republics gratefully accepts the gift of the Government of the United Kingdom, regarding it as testimony to the British people's friendly feelings towards the peoples of the USSR and as a humanitarian step towards restoring the regions of the Armenian SSR which suffered as a result of the earthquake.
3. The Government of the Union of Soviet Socialist Republics and the Government of the United Kingdom of Great Britain and Northern Ireland consider this arrangement to be a contribution to reinforcing and further developing Anglo-Soviet relations.
4. The two Governments confirm that they are content that the protocol which their appropriate national organisations signed on 16 March 1989 at Yerevan, concerning the economic, technical and legal conditions for the building of a school in Leninakan, should come into operation today, and that this protocol will form part of this memorandum.

5. This memorandum will come into operation on the day of signature and will continue to operate until letters are exchanged certifying that each side has completely fulfilled its commitments.

6. The foregoing memorandum represents the understanding reached between the Government of the Union of Soviet Socialist Republics and the Government of the United Kingdom of Great Britain and Northern Ireland.

7. Done in duplicate at London on 6 April 1989 in the Russian and English languages, both texts having equal validity.

For the Government
of the Union of Soviet
Socialist Republics:

For the Government
of the United Kingdom of Great
Great Britain & Northern
Ireland:

MEMORANDUM OF UNDERSTANDING

BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE
UNION OF SOVIET SOCIALIST REPUBLICS ON QUESTIONS
RELATING TO THE ISSUING OF VISAS TO THEIR CITIZENS

The Government of the United Kingdom of Great
Britain and Northern Ireland and the Government
of the Union of Soviet Socialist Republics,

Bearing in mind the principles and provisions of
the Final Act of the Conference on Security and
Cooperation in Europe of 1 August 1975, and of the
Concluding Document of the CSCE Conference in
Vienna of 15 January 1989;

Acting in the interests of the further development
of mutually beneficial friendly relations between
the two States;

Wishing to introduce into the regime for the issue
of visas to their citizens certain additions and
clarifications;

Have reached the following understanding:

SECTION 1

The issue of visas for short-term visits

1. The participants will regard visits made by their citizens on the territory respectively of the United Kingdom of Great Britain and Northern Ireland and of the Union of the Soviet Socialist Republics as short-term if their intended duration does not exceed 3 months.

2. The participants will normally reply to visa applications for such visits within 14 working days from receipt of an application.

At the same time the participants will take all possible measures to ensure that the proposed dates of travel of official and other visa applicants do not fall within this period.

3. For the following special categories of applicants, the participants will whenever possible issue visas, where authorised, or be ready to give a response within a period not exceeding three working days from the date of application:

(a) On the British Side:

(i) members of the Royal Family;

(ii) members of Her Majesty's Government;

(iii) members of the House of Commons and the House of Lords;

(b) On the Soviet side:

(i) the Chairman, Deputy Chairmen of the Supreme Soviet and other members of the Presidium, and Peoples Deputies of the USSR;

(ii) the Chairman, Deputy Chairmen and other members of the USSR Council of Ministers and their Deputies;

(c) spouses and dependent children of those listed in (a) and (b) above. Accelerated consideration will also be given to the applications of others wishing to accompany those listed in (a) and (b) above with the aim of issuing visas, where authorised, in the shortest possible time and normally within seven working days;

(d) senior members of official delegations leaving for the Soviet Union or the United Kingdom respectively to participate in negotiations and consultations between Ministries and Departments of the two countries. Accelerated consideration will also be given to the applications of those wishing to accompany them with the aim of issuing visas in the shortest possible time and normally within seven working days;

(e) members of British/Soviet intergovernmental Commissions and their working groups (according to lists approved in advance), leaving for the Soviet Union and the United Kingdom respectively to participate in sessions of those Commissions and groups;

(f) representatives of British banks and companies and representatives of Soviet foreign economic organisations making regular business trips to the Soviet Union and the United Kingdom respectively, subject to confirmation by the receiving side;

(g) all persons in respect of whom visa applications are submitted in accordance with the Programme of Cooperation in the Scientific, Educational and Cultural Fields between the United Kingdom and the USSR, after receiving the consent of the receiving organisation to their arrival;

(h) very close relatives (spouses, children) of members of the Embassy of the United Kingdom of Great Britain and Northern Ireland in Moscow and of the Embassy of the Union of Soviet Socialist Republics in London.

(i) all applicants under the age of 18.

SECTION 2

The issue of visas for long-term visits

1. The participants will regard as long-term those visits which are carried out by their citizens on the territory of the United Kingdom of Great Britain and Northern Ireland and of the Union of the Soviet Socialist Republics respectively for a period exceeding three months.

2. The participants will normally reply to visa applications for such visits within one calendar month from receipt of an application.

At the same time the participants will take all possible measures to ensure that the proposed dates of travel of official and other visa applicants do not fall within this period.

SECTION 3

The issue of multiple visas

1. The participants will normally reply to visa applications which envisage the issue of multiple visas within one calendar month from receipt of an application.

2. In the event of a positive decision, the participants will issue multiple visas, valid for the entire period of stay, to the following categories of persons:

(a) members of the diplomatic and administrative and technical personnel of the Embassy of the United Kingdom of Great Britain and Northern Ireland in Moscow and of the Embassy of the Union of Soviet Socialist Republics in London;

(b) spouses and dependent relatives of the said diplomatic and administrative and technical personnel of the Embassy of United Kingdom of Great Britain and Northern Ireland and of the Embassy of the Union of Soviet Socialist Republics, in accordance with the established procedures of the two sides;

(c) domestic staff arriving to work in the households of the members of the Embassy of the United Kingdom of Great Britain and Northern Ireland in Moscow and of the Embassy of Union of Soviet Socialist Republics in London, provided that those domestic staff are not citizens of third countries.

3. In the event of a positive decision, the British side will issue multiple visas valid for a period of one year to ten members of the Soviet Trade Delegation, and their spouses and dependent relatives in the United Kingdom on the basis of a list provided by the Soviet side.

4. In the event of a positive decision the participants will issue multiple visas valid for a period of one year to the categories of persons listed below and, except for those in (c) below, to very close relatives (spouses and children) and domestic staff arriving to work in their households provided that the latter are not citizens of third countries. If their period of stay is to be shorter but not less than six months, the participants will issue visas for the entire length of stay.

(a) British and Soviet journalists permanently accredited in the Soviet Union and the United Kingdom respectively;

(b) staff members of the permanent office of "British Airways" in the Soviet Union; and staff members of the permanent office of "Aeroflot" in the United Kingdom.

(c) teachers, post-graduate students, students and other persons departing from one country for the other under the Programme of Cooperation in the Scientific, Educational and Cultural Fields between the United Kingdom and the USSR.

(d) British commercial representatives resident in the Soviet Union in a representative or project capacity, and Soviet commercial representatives resident in the United Kingdom in a representative or project capacity, where those concerned have demonstrated to the receiving side their need to make regular journeys for business purposes.

5. The participants will consider favourably applications for the issue of multiple visas valid for one year to British and Soviet businessmen making regular visits to the Soviet Union or the United Kingdom respectively for the purpose of trade and economic or scientific and technical cooperation, subject to the confirmation of the receiving side.

6. In the event of a positive decision, the participants will issue multiple visas valid for one year to:

(a) diplomatic couriers of both States on the basis of lists agreed in advance;

(b) lorry drivers and passenger coach drivers of British or Soviet Nationality, subject to the receiving side confirming the need for them to make repeated visits by the corresponding means of transport to the Soviet Union or to the United Kingdom.

Such visas will be valid only when the driver enters the territory of the other country with his lorry or passenger coach.

SECTION 4

Travel for urgent, compassionate reasons

1. In urgent compassionate cases, decisions upon an application will be taken and carried out within, at most, three working days. Such cases include inter alia:

(a) travel to visit a seriously ill or dying family member;

(b) travel by those with a proven need of urgent medical treatment or who can be shown to be critically or terminally ill;

(c) travel to attend funeral of a family member.

SECTION 5

Arrangements for making non-visa visits

1. The following categories of persons enter and exit from the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics on a non-visa basis:

(a) crew members of "British Airways" and "Aeroflot" aircraft on the basis of the arrangements made by the Exchange of Notes of 27 and 30 April 1987 amending the 1968 Agreement on the Abolition of Visas for Crew Members of "British Airways" and "Aeroflot" aircraft;

(b) crew members of British and Soviet maritime vessels on the basis of Articles 13, 14 and 15 of the Treaty on Merchant Navigation of 3 April 1968 between the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republic.

2. The following categories of people will normally be permitted to undertake journeys to or through the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics without a visa:

(a) airline passengers on transit flights across the territory of the United Kingdom or of the Soviet Union provided that they possess documents entitling them to enter the country of destination and also confirmed air tickets for the next flight

out of the same airport within a maximum of 24 hours from the time of arrival. This category of persons may not leave the confines of the airport unless separately authorised to do so by the immigration authorities of the United Kingdom or the frontier authorities of the USSR;

(b) British and Soviet tourists on cruises or maritime passenger vessels who intend to leave within twenty-four hours of their arrival on the ship on which they arrived, may go ashore on short excursions, provided that they are accommodated on board the ship and provided, in the case of the United Kingdom, that the ship is not calling at any other United Kingdom port in the course of its voyage.

This memorandum will come into operation on signature and will continue in operation until terminated by either signatory giving the other notice in writing six months before the intended date of its termination.

Done in duplicate at London on 6 April 1989 in the English and Russian languages, both texts being of equal validity.

For the Government of
the United Kingdom of
Great Britain and
Northern Ireland:

For the Government of
the Union of Soviet
Socialist Republics: