

Opening Note of the Republic of Austria

No. XXX

The Federal Ministry for European and International Affairs of the Republic of Austria presents its compliments to the Embassy of the Republic of Malta in Vienna and has the honour to refer to note verbale No. 12/2021 dated 1 February 2021 concerning the Termination of the Agreement between the Republic of Austria and Malta on the Promotion and mutual Protection of Investments.

In the light of the above and with reference to the judgment of the Court of Justice of the European Union of 6 March 2018 in Case C-284/16, *Achmea*, 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 Republic of Malta on the Termination of the Agreement between the Republic of Austria and Malta on the Promotion and mutual Protection of Investments (hereinafter referred to as the “Termination Agreement”)

1. The Agreement between the Republic of Austria and Malta on the Promotion and mutual Protection of Investments, signed in Vienna on 29 May 2002, shall be terminated in accordance with the provisions set out in this Termination Agreement.
2. For greater certainty, the Parties expressly agree that Article 27 Paragraph 3 of the Agreement between the Republic of Austria and Malta on the Promotion and mutual Protection of Investments, which extends the protection of investment made prior to the date of termination, shall be terminated and shall thus not produce any legal effects after the entry into force of this Termination Agreement.
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 Republic of Malta accepts the abovementioned proposal, this note verbale together with the reply note of from the Republic of Malta 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 Republic of Malta in Vienna the assurances of its highest consideration.

Vienna, XX 2021

Reply Note of the Republic of Malta

No. XXX

The Embassy of the Republic of Malta in Vienna presents its compliments to the Federal Ministry for European and International Affairs of the Republic of Austria and with reference to the note verbale No. X of X 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 Republic of Malta in Vienna and has the honour to refer to note verbale No. 12/2021 dated 1 February 2021 concerning the Termination of the Agreement between the Republic of Austria and Malta on the Promotion and mutual Protection of Investments.

In the light of the above and with reference to the judgment of the Court of Justice of the European Union of 6 March 2018 in Case C-284/16, *Achmea*, 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 Republic of Malta on the Termination of the Agreement between the Republic of Austria and Malta on the Promotion and mutual Protection of Investments (hereinafter referred to as the “Termination Agreement”)

1. The Agreement between the Republic of Austria and Malta on the Promotion and mutual Protection of Investments, signed in Vienna on 29 May 2002, shall be terminated in accordance with the provisions set out in this Termination Agreement.
2. For greater certainty, the Parties expressly agree that Article 27 Paragraph 3 of the Agreement between the Republic of Austria and Malta on the Promotion and mutual Protection of Investments, which extends the protection of investment made prior to the date of termination, shall be terminated and shall thus not produce any legal effects after the entry into force of this Termination Agreement.
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 Republic of Malta accepts the abovementioned proposal, this note verbale together with the reply note of from the Republic of Malta 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 Republic of Malta in Vienna the assurances of its highest consideration.”

The Embassy of the Republic of Malta in Vienna has the honour to inform that the Republic of Malta agrees to conclude the proposed **Agreement between the Republic of Malta and the Republic of Austria on the Termination of the Agreement between Malta and the Republic of Austria on the Promotion and mutual Protection of Investments** (hereinafter referred to as the “Termination Agreement”) and accepts that the **note verbale No. X of X 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 Republic of Malta in Vienna avails itself of this opportunity to renew to Federal Ministry for European and International Affairs of the Republic of Austria the assurances of its highest consideration.

Vienna, XX 2021