

capacity in the event of a denial of justice or other question of state responsibility as defined in international law.

4. Should the said Insuring Agency acquire, under investment insurance contracts, amounts and credits of the lawful currency of the Government of Fiji, the said Government of Fiji shall accord to those funds treatment no different than that which it would accord if such funds were to remain with the investor, and such funds shall be freely available to the Government of Canada to meet its expenditures in the national territory of Fiji.

5. This agreement shall apply only with respect to insured investments in projects or activities approved in writing by the Government of Fiji.

6. Differences between the two Governments concerning the interpretation and application of provisions of this Agreement or any claim arising out of investments insured in accordance with this Agreement, against either of the two Governments, which in the opinion of the other presents a question of public international law, shall be settled, insofar as possible, through negotiations between the Governments. If such differences cannot be resolved within a period of three months following the request for such negotiations, it shall be submitted, at the request of either Government to an ad hoc tribunal for settlement in accordance with applicable principles and rules of public international law. The arbitral tribunal shall consist of three members and shall be established as follows: each Government shall appoint one arbitrator; a third member, who shall act as Chairman, shall be appointed by the other two members. The Chairman shall not be a national of either country. The arbitrators shall be appointed within two months and the Chairman within three months of the date of receipt of either Government's request for arbitration. If the foregoing time limits are not met, either Government may, in the absence of any other agreement, request the President of the International Court of Justice to make the necessary appointment or appointments and both Governments agree to accept such appointment or appointments. The arbitral tribunal shall decide by majority vote. Its decision shall be binding and definitive. Each of the Governments shall pay the expense of its member and its representation in the proceedings before the arbitral tribunal; expenses of the Chairman and other costs shall be paid in equal parts by the two Governments. The arbitral tribunal may adopt other regulations concerning costs. In all other matters, the arbitral tribunal shall regulate its own procedures. Only the respective Governments may request arbitral procedure and participate in it.

I have the honour to propose that, if the foregoing is acceptable to your Government, this Note, which is authentic in English and French, and your reply to that effect shall constitute an Agreement between our two Governments which shall enter into force on the date of your reply. This Agreement shall continue in force until terminated by either Government on six months' notice in writing to the other. In the event of termination, the provisions of the Agreement shall continue to apply, in respect of insurance contracts issued by the Government of Canada while the Agreement was in force, for the duration of these contracts; provided that in no case shall the Agreement continue to apply to such contracts for a period longer than 15 years after the termination of this Agreement.