AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF ECUADOR AND THE GOVERNMENT OF THE REPUBLIC OF CUBA FOR THE PROMOTION AND PROTECTION OF RECIPROCAL INVESTMENTS

The Government of the Republic of Ecuador and the Government of the Republic of Cuba, hereinafter referred to as the "Contracting Parties".

With the desire to intensify economic cooperation between the two countries.

For the purpose of creating favorable conditions for the investments of investors of one Contracting Party in the territory of the other Contracting Party, which. Involve capital transfers.

Aware of the need to establish an adequate legal framework to regulate the promotion and reciprocal protection of investments between the two countries.

Recognizing that the promotion and protection of such investments on the basis of a Convention will help to stimulate economic initiative and increase the prosperity of both States.

Have agreed as follows.

Article I. Definitions

For the purposes of this Convention:

(1) The term "INVESTMENT" shall designate, in accordance with the laws and regulations of the Contracting Party in whose territory the investment was made, all types of assets invested by investors of one Contracting Party in the territory of the other Contracting Party in accordance with With the latter's legislation. It includes in particular, but not exclusively:

A) The ownership of movable and immovable property, as well as other real rights such as mortgages, security and pledge rights.

B) Shares, corporate quotas and any other type of participation in companies.

C) Credit notes and rights to benefits that have an economic value; The loans will only be included when they are regularly contracted and documented according to the provisions in force in the country where the investment is made and directly linked to a specific investment.

D) If national laws permit, intellectual property rights including, in particular, copyright, patents, industrial designs, trademarks, trade names, technical procedures, know-how and key rights.

E) Economic concessions conferred by law or by contract, and any licenses and permits granted according to the law.

This Convention shall hereafter apply to all investments lawfully made by one Contracting Party within the territory of the other Contracting Party before its entry into force, as well as those which are subsequently carried out under its auspices. However, the provisions of this Agreement shall not apply to a dispute, claim or dispute that arose prior to the date of its validity.

(2) The term "investor" means:

A) In the case of the Republic of Cuba, any natural person who is a citizen of that State, in accordance with its legislation and has permanent residence in its territory.

In the case of the Republic of Ecuador, any natural person who is a citizen of that State, in accordance with its legislation.

(B) Any legal person constituted in accordance with the laws and regulations of a Contracting Party and having its seat in the

territory of that Contracting Party, whether or not its activity is for profit.

(2) The term "earnings" means all sums produced by an investment, such as profits, dividends, interest and other current income.

(4) The term "territory" includes the national territories of each Contracting State, including the territorial sea, and those maritime areas adjacent to the outer boundary of said territorial sea, over which the Contracting State concerned

May, in accordance with its law and international law, exercise sovereignty, sovereign rights or jurisdiction.

Article II. Promotion of Investments

Each Contracting Party shall promote in its territory the investments of investors of the other Contracting Party and shall admit such investments in accordance with its laws and regulations.

Article III. Investment Protection

(1) Each Contracting Party shall at all times ensure fair and equitable treatment of investments of investors of the other Contracting Party and shall not prejudice its management, maintenance, use, enjoyment or disposal through unjustified or discriminatory measures.

(2) Each Contracting Party shall accord to investments and investment income made by investors of the other Contracting Party treatment no less favorable than that reserved for investments and investment income made by investors from third States.

(3) Notwithstanding the provisions of paragraph (2) of this Article, most-favored-nation treatment shall not apply to the privileges accorded by each Contracting Party to investors of a third state as a result of their participation or association in a Free trade zone, customs union, common market, or regional agreement.

(4) The provisions of paragraph (2) of this Article shall not be construed to require a Contracting Party to extend to the investors of the other Contracting Party the benefits of any treatment, preference or privilege resulting from an international agreement relating Totally or partially to tax matters.

Article IV. Expropriations and Compensations

(1) Neither Contracting Party shall take measures of nationalization or expropriation or any other measure having the same effect, against investments that are in its territory and which belong to investors of the other Contracting Party, unless such measures are taken For reasons of public utility, on a non-discriminatory basis and under due process of law of the receiving country.

The measures shall be accompanied by provisions for the payment of prompt, adequate and effective compensation. The amount of such compensation shall correspond to the market value that the expropriated investment had immediately prior to the expropriation or before the impending expropriation became public, if this occurs previously, it will comprise interest from the date of the expropriation at a normal commercial rate, Shall be paid without delay and shall be effectively realizable and freely transferable.

(2) Investors of one Contracting Party, who suffer loss of investment in the territory of the other Contracting Party, due to war or other armed conflict, state of national emergency, revolt, insurrection or mutiny, shall receive in respect of Restitution, compensation, compensation or other compensation, treatment no less favorable than that accorded to its own investors or to investors of a third State. Payments will be freely transferable.

Article V. Transfers

(1) Each Contracting Party shall guarantee to the investors of the other Contracting Party the unrestricted transfer of investments and profits, provided that the capital is registered with the competent national entity and prior to payment of the corresponding taxes, in particular, although not Exc lus i vair.ent and from:

A) The capital and the additional sums necessary for the maintenance and development of the investments.

B) Profits, profits, interests, dividends and other current income.

(C) Funds for the repayment of loans as defined in Article I, paragraph (1) (c).

D) Royalties.

E) The proceeds from the sale or total or partial liquidation of an investment.

F) The compensations provided for in Article IV.

(2) Transfers shall be made without delay, in freely convertible currency, at the official exchange rate applicable on the date of transfer, in accordance with procedures established by the Contracting Party (which may not affect the substance of the rights provided for therein In whose territory the investment was made.

Article VI. Subrogation

(1) If a Contracting Party or one of its agencies makes a payment to an investor under a guarantee or insurance against non-commercial risks contracted in relation to an investment, the other Contracting Party shall recognize the validity of the subrogation In favor of that Contracting Party or one of its agencies with respect to any right or title of the investor. The Contracting Party or one of its agencies shall be authorized, within the limits of subrogation, to exercise the same rights as the investor would have been authorized to exercise.

(2) In the case of a subrogation as defined in paragraph (1) of this article, the investor shall not lodge any claim unless authorized to do so by the Contracting Party or its agency.

(3) With regard to rights of ownership, use or enjoyment of any other real right, subrogation may only take place after obtaining the relevant authorizations, in accordance with the legislation in force in the Contracting Party where the investment was made.

Article VII. Application of other Standards

If the provisions of the legislation of any Contracting Party or existing international obligations or established in the future between the Contracting Parties in addition to this Convention or if an Agreement between an investor of one Contracting Party and the other Contracting Party contain

Rules, whether general or specific, which accord to investments made by investors of the other Contracting Party more favorable treatment than that provided for in this Convention, such rules shall prevail over this Convention to the extent that it is most favorable.

Article VIII. Settlement of Disputes between the Contracting Parties

(1) Disputes arising between the Contracting Parties concerning the interpretation or application of this Convention shall, as far as possible, be settled through diplomatic channels.

(2) If a dispute between the Contracting Parties can not be settled in such a manner within a period of six months from the beginning of the negotiations, it shall be submitted, at the request of either Contracting Party, to an Arbitral Tribunal..

(3) The Arbitral Tribunal shall be constituted for each particular case as follows. Within two months of receipt of the request for arbitration, each Contracting Party shall designate a member of the tribunal. These two members shall elect a third-country national who, with the approval of both Contracting Parties, shall be appointed President of the Court. The President shall be appointed within a period of two months from the date of the appointment of the other two members.

(4) If, within the time limits specified in paragraph (3) of this article, the necessary appointments have not been made, any of the Contracting Parties may, in the absence of any other arrangement, invite the President of the International Court of Justice to Make the necessary appointments. If the President is a national of one of the Contracting Parties, or where for any reason he is unable to perform such function, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a national of one of the Contracting Parties, or if he is also prevented from performing that function, the member of the International Court of Justice who immediately follows him in the order of precedence and is not a national of either Contracting Party, Shall be invited to make the necessary appointments.

(5) The Arbitral Tribunal shall take its decision by a majority of votes. Such a decision shall be binding on both Contracting Parties. Each Contracting Party shall bear the expenses of its member of the Tribunal and of its representation in the arbitral proceedings. The expenses

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Of the President, as well as other expenses shall in principle be borne in equal parts by the Contracting Parties, however, the

Arbitral Tribunal may determine in its decision that a greater proportion of the expenses be borne by one of the two Contracting Parties, and this award Shall be binding on both Contracting Parties. The Court will determine its own

Process.

Article IX. Settlement of Disputes between an Investor and the Contracting Party Receiving the Investment

(1) Any dispute concerning the provisions of this Convention between an investor of one Contracting Party and the other Contracting Party shall, as far as possible, be settled by friendly consultations.

(2) If the dispute could not be settled within six months from the time it was raised by one or other of the Parties, it may be submitted, at the request of the investor:

- Or to the competent courts of the Contracting Party in whose territory the investment was made,

- Or to international arbitration under the conditions described in paragraph (3).

Once an investor has submitted the dispute to the jurisdictions of the Contracting Party concerned or to international arbitration, the choice of one or other of these procedures shall be final.

(3) In case of recourse to international arbitration, the dispute shall be submitted to an Ad-hoc Arbitration Tribunal established in accordance with the rules of arbitration of the United Nations Commission on International Trade Law (C. N. U. D. M. I.)

(4) The arbitration body shall decide on the basis of the provisions of this Convention, the law of the Contracting Party that is a party to the dispute, including rules on conflict of laws, the terms of any particular agreements concluded in relation to the investment As well as to the principles of international law in this area.

(5) Arbitral awards shall be final and binding on the parties to the dispute. Each Contracting Party shall implement them in accordance with its legislation.

Article X. Entry Into Force, Duration and Termination

(1) This Agreement shall enter into force on the first day of the second month following the date on which the Contracting Parties notify each other in writing that they have completed their respective constitutional requirements for the entry into force of this Agreement. Its validity will be of ten years. It shall thereafter remain in force until the expiration of twelve months from the date on which either Contracting Party notifies the other Contracting Party in writing of its decision to terminate this Agreement.

(2) The provisions of this Agreement shall apply to future investments made by investors of one of the Contracting Parties within the territory of the other Contracting Party and also, from the date of its entry into force, thereafter to those investments already Existing ones. However, this Agreement shall not apply to disputes, claims or disputes arising prior to its entry into force.

(3) With respect to investments made prior to the date on which the notice of termination of this Agreement becomes effective, the provisions of Articles I to IX shall remain in force for a period of ten years from that date.

Done in the city of Quito, on the sixth day of the month of May of 1997 in two original copies, in the Spanish language, both texts being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF ECUADOR

FOR THE GOVERNMENT OF THE REPUBLIC OF CUBA

Minister of Relations

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External

Deputy Minister of the Ministry for Foreign Investment and Economic Cooperation