

# **Agreement between the Government of the French Republic and the Government of the Republic of Costa Rica on the reciprocal encouragement and protection of investments**

The Government of the French Republic and the Government of the Republic of Costa Rica, hereinafter referred to as the "Contracting Parties",

Wishing to develop economic cooperation between the two States and create favorable conditions for French investments in Costa Rica and Costa Rican investments in France,

Convinced that the promotion and protection of such investments will be conducive to the stimulation of capital and technology transfer between the two countries in the interest of their economic development,

Have agreed to conclude an agreement concerning the encouragement and reciprocal protection of investments which are as follows:

## **Article 1.**

For the purposes of this Agreement:

1. the term "investment" means assets, such as property rights and interests of all kinds, and particularly but not limited to:

a) Movable and immovable property as well as any other rights in rem such as mortgages, liens, usufructs, deposits and similar rights;

b) Shares, stock options and other forms of participation, even minority or indirect, in companies incorporated in the territory of one of the Parties.

c) The obligations and rights, claims to any performance having economic value;

d) Copyrights; industrial property rights such as patents, licenses, trademarks, industrial drawings, models and models; technical processes; registered names and goodwill;

e) Concessions granted by law or under contract, including concessions to search for, culture, extract or exploit natural resources including those situated in maritime areas of the Contracting Parties,

Provided that such assets must be or have been invested in accordance with the law of the Contracting Party in the territory or maritime zones of which the investment is made before or after the entry into force of this Agreement.

Any alteration of the form in which assets are invested shall not affect their classification as investment provided that such alteration is not contrary to the legislation of the State in the territory or maritime zones in which the investment is made.

2. The term "national" means natural persons having the nationality of one of the Contracting Parties.

3. The term "companies" juridical means any person in the territory of one of the Contracting Parties in accordance with their legislation and having its registered office or directly or indirectly controlled by nationals of either Contracting Party, or by a juridical person with its head office in the territory of one of the Contracting Parties and in accordance with its law.

4. The term "income" shall mean all sums produced by an investment such as profits, royalties or interest during a given period.

Investment income and in case of reinvestment, income from their reinvestment shall enjoy the same protection as the investment.

5. The term "Maritime Zones" means of marine and submarine areas over which the Contracting Party exercises, in

accordance with their internal legal order, in accordance with international law, sovereign, sovereign rights or jurisdiction.

## **Article 2.**

Each Contracting Party recognizes and encourages, within the framework of its laws and the provisions of this Agreement, all investments made by companies and nationals of the other party in its territory and in the maritime zones.

## **Article 3.**

Each of the Contracting Parties, by means of its legislation, undertakes to ensure in its territory and in its maritime zones fair and equitable treatment in accordance with the principles of international law for investments made by nationals and companies of the other Party and to ensure that the exercise of the right thus recognized is not hindered either in law or in fact.

## **Article 4.**

Each Contracting Party shall apply in its territory and in its maritime zones, to the nationals or companies of the other Party, in respect of their investments and activities connected therewith, the treatment accorded to its nationals or companies, or the treatment accorded to the nationals or companies of the most favored nation, whichever is more advantageous. In this concept, nationals authorized to work in the territory and maritime zones of one of the Contracting Parties shall be able to enjoy appropriate material facilities for the exercise of their professional activities.

This treatment shall not extend, however, to the privileges which a Contracting Party accords to nationals or companies of a third State by virtue of its participation or association in a free trade area, a customs union, a common market or any other form of regional economic organizations.

## **Article 5.**

1. Investments made by nationals or companies of any of the Contracting Parties shall enjoy, in the territory and maritime zones of the other Contracting Party, the Contracting Party shall enjoy, in the territory and maritime zones of the other Contracting Party, absolute protection and security, of absolute protection and security.

2. The Contracting Parties shall not take measures of expropriation or nationalization, or any other measure any other measure the effect of which is to dispossess, directly or indirectly, the nationals and companies of the other Contracting nationals and companies of the other Party, of investments belonging to it in its territory and maritime zones, except its maritime zones, except in the public interest and provided that such measures are neither discriminatory nor such measures are neither discriminatory nor contrary to a specific commitment.

The measures of dispossession which may be taken shall give rise to the payment of a prompt and adequate compensation, the amount of which, calculated on the real value of the investments concerned, must be the actual value of the investments concerned should be assessed in relation to a normal economic situation and prior to any threat of dispossession. and prior to any threat of dispossession.

This compensation, its amount and the terms of payment shall be fixed at the latest on the date of dispossession. date of dispossession. This compensation shall be effectively realizable, shall be paid without delay and shall be freely transferable. delay and shall be freely transferable. It shall bear interest until the date of payment calculated at a rate of interest allowed by the Contracting Parties.

3. Investors of one of the Contracting Parties whose investments have suffered losses due to war or warlike losses due to war or any other armed conflict, revolution, rebellion, or state of national emergency occurring in the national emergency occurring on the territory or in the maritime zones of the other Contracting Party shall be entitled to Contracting Party shall enjoy, on the part of the latter, treatment no less favorable than that accorded to its own investors. than that accorded to its own investors.

## **Article 6.**

Each Contracting Party, in whose territory or maritime zones investments have been made by nationals or companies of the other Contracting Party, grants to these nationals or companies the free transfer of:

(a) Interest, dividends, profits and other current income.

(b) Royalties derived from the rights designated in paragraph (l) (d) and (e) of Article 1.

c) Payments made for the repayment of loans regularly contracted.

d) The proceeds from the sale or total or partial liquidation of the investment, including capital gains on the invested capital.

e) Compensation for dispossession or loss provided for in Article 5, paragraphs 2 and 3 above.

Nationals of each Contracting Party who have been authorized to work in the territory or maritime zones of the other Contracting Party in connection with an investment shall be authorized to transfer to their country of origin an appropriate part of their remuneration.

The transfers referred to in the preceding paragraphs shall be effected without delay at the rate of exchange prevailing on the date of the transfer, in the same foreign exchange market of capital inflow, in the currency of inflow or its equivalent in any other currency of which the Special Drawing Right is composed.

## **Article 7.**

To the extent that the legislation of one of the Contracting Parties provides for a guarantee for investments made abroad, such guarantee may be granted, after examination on a case-by-case basis, to investments made by nationals or companies of that Party in the territory or maritime zones of the other Party.

Investments made by nationals or companies of one of the Contracting Parties in the territory or maritime zones of the other Party may obtain the guarantee referred to in the preceding paragraph only after having obtained the prior authorization of the latter Party.

## **Article 8.**

Any investment dispute between a Contracting Party and a national or company of the other Contracting Party shall, if possible, be settled amicably between the two parties concerned.

If such dispute cannot be settled within six months after it has been raised by either Party, it shall, at the request of either Party, be submitted to the arbitration of the International Centre for Settlement of Investment Disputes between States, signed at Washington on March 18, 1965.

## **Article 9.**

If one of the Contracting Parties, by virtue of a guarantee given for an investment made in the territory of the other Party, makes payments to one of its nationals or to one of its companies, it is thereby subrogated to the rights and actions of that national or that company.

Such subrogation shall not affect the rights of the beneficiary of the guarantee to have recourse to ICSID or to pursue the actions brought before the latter Center until the conclusion of the proceedings.

## **Article 10.**

Investments which have been the subject of a specific undertaking by one of the Contracting Parties concerning nationals and companies of the other Contracting Party shall be governed, without prejudice to the provisions of this Agreement, by the terms of this undertaking provided that it contains provisions no less favorable than those provided for in this Agreement.

## **Article 11.**

1. Disputes relating to the interpretation or application of the present agreement shall, as far as possible, be settled through diplomatic channels.

2. If the dispute has not been settled within six months from the time when it was raised by either Contracting Party, it shall, at the request of either Contracting Party, be submitted to an Arbitral Tribunal.

3. Such Tribunal shall be constituted for each particular case as follows: Each Contracting Party shall appoint one member and the two members shall appoint, by mutual agreement, a member of a third State who shall be appointed Chairman of such Tribunal. All members shall be appointed within two months of the date on which one of the Contracting Parties has

notified the other Contracting Party of its intention to submit the dispute to arbitration.

4. If the time limits laid down in paragraph 3 above are not complied with, either Contracting Party shall, in the absence of an applicable agreement, invite the Secretary General of the United Nations to make the necessary appointments. If the Secretary General is a national of one of the Contracting Parties or if, for any reason, he is unable to perform this function, the most senior Deputy Secretary General who is not a national of one of the Contracting Parties shall make the necessary appointments.

5. The Arbitral Tribunal shall make its decisions by majority vote. These decisions shall be final and enforceable as of right by both Contracting Parties.

The Tribunal shall establish its own rules of procedure. It shall interpret the decision at the request of either Contracting Party. Court costs, including arbitrators' fees, shall be shared equally by the two Governments, unless the Tribunal, taking into account the particular circumstances, decides otherwise.

## **Article 12.**

In order to encourage reciprocal investment, the Contracting Parties agree to exchange information on economic relations between them. The conditions, methods and techniques of the exchange of economic information shall be established by mutual agreement between the respective governmental agencies of both Parties.

## **Article 13.**

Each of the Contracting Parties shall notify the other of the completion of the required internal procedures regarding the entry into force of this agreement, which shall take effect one month after receipt of the last notification.

This agreement shall have an initial duration of ten years and shall remain in force after this term unless one of the two Parties denounces it through diplomatic channels with one year's notice.

At the expiration of the period of validity of this Convention, investments made during its term shall continue to enjoy the protection of its provisions for a further period of fifteen years, with the exception of mining investments, the term of which shall be twenty years.

Done in Paris, on March 8, 1984, in two original copies, each in French and Spanish, both texts being equally authentic.

For the Government of the French Republic:

MICHEL CAMDESSUS

For the Government of the Republic of Costa Rica :

ENRIQUE POCHTET CABEZIAS

Dear Mr. President

I have the honor to refer to the Agreement signed today between the Government of the French Republic and the Government of the Republic of Costa Rica on the reciprocal encouragement and protection of investments and to inform you that the interpretation of this Convention is as follows

1. With regard to Article 3:

(a) Any restriction on the purchase and transport of raw and auxiliary materials, energy and fuel, and means of production and operation of any kind, any impediment to the sale and transport of products within the country and abroad, and any other measure having a similar effect, shall be considered as legal or de facto impediments to fair and equitable treatment;

(b) The Contracting Parties shall give sympathetic consideration, within the framework of their domestic legislation, to applications for entry and authorization to reside, work and travel submitted by nationals of a Contracting Party in connection with an investment in the territory of the other Contracting Party.

2. With regard to Article 5:

The rate of interest agreed by the Contracting Parties shall be the official rate of interest on the Special Drawing Right as fixed by the IMF.

I would be grateful if you could inform me of your Government's agreement with the contents of this letter.

Please accept, Mr. President, the assurances of my highest consideration.

The Chairman of the French Delegation

Dear Mr. President

I have the honor to acknowledge receipt of your letter of today's date which reads as follows

"I have the honor to refer to the Agreement signed today between the Government of the French Republic and the Government of the Republic of Costa Rica on the reciprocal encouragement and protection of investments and to inform you that the interpretation of this Convention is as follows

"(1) With respect to Article 3:

"(a) Any restriction on the purchase and transportation of raw and auxiliary materials, energy and fuel, and means of production and operation of any kind, any impediment to the sale and transportation of products within the country and abroad, and any other measures having a similar effect, shall be considered as legal or de facto impediments to fair and equitable treatment;

"(b) The Contracting Parties shall, within the framework of their domestic legislation, give sympathetic consideration to applications for entry and authorization to reside, work and travel submitted by nationals of a Contracting Party in connection with an investment in the territory of the other Contracting Party.

"(2) With respect to Article 5:

"The rate of interest agreed by the Contracting Parties shall be the official rate of interest on the Special Drawing Right as fixed by the IMF.

I should be grateful if you would inform me of your Government's agreement with the contents of this letter. "

I have the honor to confirm my Government's agreement with the contents of this letter.

Please accept, Mr. President, the assurances of my highest consideration.

The President of the Delegation of Costa Rica

Dear Mr. President

I have the honor to refer to the Agreement signed today between the Government of the French Republic and the Government of the Republic of Costa Rica on the reciprocal encouragement and protection of investments and to inform you that the interpretation of this Convention is as follows with respect to Article 6:

1. The Government of Costa Rica indicates that, in the present state of its legislation, the foreign investor must register his investment with the Central Bank of Costa Rica in order to carry out the transfers provided for in this article. This registration will be automatic if the investment has been or is being made in accordance with Costa Rican law.

2. In the event of exceptional balance of payments difficulties, each contracting party may exercise in an equitable, nondiscriminatory and good faith manner the powers conferred by its laws, consistent with its responsibilities and obligations as a member of the International Monetary Fund.

Such powers shall not be used to prevent the transfer of income or allowances provided for in Article 5, paragraph 2.

With respect to the proceeds of the total or partial sale or liquidation of an investment, the transfer shall be made on a non-discriminatory basis at the exchange rate prevailing on the date the transfer should have been made and with interest paid for the period of delay; it shall be made as soon as possible and in any event within a maximum period of one year from the time the investor has requested authorization for the transfer.

I would be grateful if you could inform me of your Government's agreement with the contents of this letter.

Please accept, Mr. President, the assurances of my highest consideration.

The Chairman of the Costa Rican delegation

Dear Mr. President

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"(2) In the event of exceptional balance of payments difficulties, each contracting party may exercise in an equitable, non-discriminatory and good faith manner the powers conferred by its laws, consistent with its responsibilities and obligations as a member of the International Monetary Fund.

"Such powers shall not be used to prevent the transfer of income or compensation under Article 5, paragraph 2.

"As regards the proceeds of the total or partial sale or liquidation of an investment, the transfer must be made in a non-discriminatory manner at the exchange rate in effect on the date on which the transfer should have been made and with interest paid for the period of delay; it must be made as quickly as possible and in any event within a maximum period of one year from the time the investor requests authorization for the transfer.

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Please accept, Mr. President, the assurances of my highest consideration.

The Chairman of the French delegation

Dear Mr. President

I have the honor to refer to the Agreement signed today between the Government of the French Republic and the Government of the Republic of Costa Rica on the reciprocal encouragement and protection of investments and to inform you that the interpretation of this Convention is as follows with regard to

Articles 8 and 9:

Pending the ratification by the Costa Rican Legislative Assembly of the Convention on the Settlement of Disputes between States and Nationals of Other States, signed in Washington on March 18, 1965, the Contracting Parties agree that any investment dispute between one of the Contracting Parties and a national or company of the other Contracting Party shall be finally settled under the arbitration rules of the United Nations Commission on International Trade Law as adopted by the General Assembly of the United Nations in its resolution 31/98 of December 15, 1976.

I should be grateful if you would inform me of your Government's agreement with the contents of this letter.

Please accept, Mr. President, the assurances of my highest consideration.

The President of the French delegation

Dear Mr. President

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The Chairman of the Costa Rican Delegation