

# AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF PARAGUAY AND THE GOVERNMENT OF THE STATE OF QATAR FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the Republic of Paraguay and the Government of the State of Qatar, hereinafter referred to as the "Contracting Parties";

Desiring to intensify economic cooperation for the mutual benefit of both States;

Intending to create and maintain favorable conditions for investments of investors of one Contracting Party in the territory of the other Contracting Party;

Recognizing the need to promote and protect such investments in order to foster the economic prosperity of both Contracting Parties;

AGREEING that fair and equitable treatment is desirable in order to maintain a stable framework for investment, which will maximize the effective utilization of economic resources;

HAVE AGREED as follows:

## Article 1. Definitions

For the purposes of this Agreement and unless otherwise used, the following words and terms shall have the corresponding meanings:

1. The term "Investor" refers to a natural or juridical person of one of the Contracting Parties:

a. The term "natural person", refers, with respect to any of the Contracting Parties, to any natural person, who possesses the nationality of one of the parties to this Agreement. The provisions of this Agreement shall not apply to investments made by natural persons who are nationals of one of the Contracting Parties within the territory of the other Contracting Party if such persons, at the date of the investment, are permanently resident in the territory of the latter Contracting Party, unless it is shown that those related to the investment come from abroad.

b. The term "juridical person" means, with respect to either Contracting Party, any juridical person, including enterprises, companies, corporations, firms or business associations constituted or organized under the applicable laws of a Contracting Party, and established in the territory of the same Contracting Party, whether or not for profit, and whether privately or governmentally owned or held;

c. In addition, juridical persons include governments, official agencies, authorities, sovereign wealth funds, trusts, and organizations established or organized under the respective state legislation of the Contracting Parties or a third party in which the above-mentioned investor exercises effective control.

2. The term "Investment" means any kind of asset invested by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the latter Contracting Party, which is carried out and effectively controlled, directly or indirectly by a natural or legal person, as defined in the preceding paragraphs, and shall include in particular, but not exclusively, the following:

a. The ownership of movable and immovable property, as well as other rights in rem, such as easements, guarantees, mortgages, liens, pledges and the like;

b. Shares, securities, titles or participation rights in companies or any other form of participation in companies or joint ventures, as well as the economic interests resulting from such activity;

c. Rights over money or any other function under contract having an economic value;

d. Intellectual and industrial property rights, intangible property rights, including, in particular, copyrights, patents, industrial models, trademarks, trade names, technical and technological procedures, know-how, good faith, key value and plant breeders, which are protected by the domestic law of the host State;

e. Any rights of an economic nature conferred by Law or by contract, including concessions for the search, cultivation, extraction or exploitation of natural resources.

Any change in the manner in which the assets are invested or reinvested shall not affect their qualification as investments so long as such alterations do not conflict with the provisions of this Agreement and with the legislation of the Contracting Party in whose territory the investment is made.

3. The term "Profits" means the return on an investment and money earned on an investment and includes, in particular, but not exclusively, profits, dividends, interest, capital gains, royalties and fees.

4. The term "Freely Convertible Currency" means a currency widely used to make payments in international transactions, as classified by the International Monetary Fund (IMF).

5. The term "Result of Investment" refers to all goods and services, including intellectual and industrial property rights, resulting from economic activities that have utilized the investments of the Contracting Party's investor in the territory of the other Contracting Party.

6. "Territory":

a. For the State of Qatar: land, internal waters and territories of the State of Qatar, its soil and subsoil, the airspace thereof, the economic zone and the continental shelf, over which sovereign and jurisdictional rights are exercised by the State of Qatar, in accordance with the provisions of international and national laws and its regulations;

b. In relation to the Republic of Paraguay, it refers to the territorial extension over which the State exercises its sovereignty or jurisdiction in accordance with the National Constitution and international and national law.

## **Article 2. Scope of the Agreement**

This Agreement shall apply to all investors and their investments made by investors of either Contracting Party in the territory of the other Contracting Party, accepted as such, in accordance with its laws and regulations, made before or after the entry into force of this Agreement, but shall not apply to any dispute arising prior to the entry into force of this Agreement.

## **Article 3. Promotion and Encouragement of Investment**

1. Each Contracting Party shall, as far as possible, encourage and create favorable conditions for investors of the other Contracting Party to make investments in its territory, and shall admit such investments in accordance with its laws and regulations in force.

2. Where a Contracting Party has admitted an investment in its territory, it shall provide the necessary permits in connection with such investment in accordance with its laws and regulations.

3. Investments made by investors of each Contracting Party shall at all times receive fair and equitable treatment and enjoy protection and security in the territory of the other Contracting Party, in accordance with customary international law.

4. Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the operation, management, maintenance, use, enjoyment or transfer of investments in its territory by investors of the other Contracting Party.

## **Article 4. Treatment of Investment**

1. Each Contracting Party shall, in its territory, accord fair and equitable treatment to investments and returns of investors of the other Contracting Party, and not less favorable than that accorded to investments and returns of its own investors or to investments and returns of investors of any third State, whichever is more favorable to investors.

2. Each Contracting Party shall, in its territory, accord to investors of the other Contracting Party, with respect to the management, maintenance, use, enjoyment or transfer of their investments, fair and equitable treatment no less favorable than that accorded to its own investors.

3. Each Contracting Party shall, in its territory, accord treatment to investors of the other Contracting Party which shall be no less favorable than the treatment accorded to other investors of third States.

4. The treatment accorded under paragraphs 1, 2 and 3 of this Article shall not be construed as requiring a Contracting Party to extend to investors of the other Contracting Party and their investments the benefit of any treatment, preference or privilege resulting from:

a. Its participation in, or association, present or future, with a free trade area, a customs union, a common market, or;

b. Any international agreement or arrangement relating wholly or partly to taxation or any national legislation relating wholly or partly to taxation.

## **Article 5. Expropriation and Compensation**

1. Neither Contracting Party shall take expropriation, nationalization or any other measure having the same effect against investments belonging to the other Contracting Party (hereinafter referred to as "expropriation") unless the measures are taken in the public interest, in a non-discriminatory manner and under due process of law, and upon payment of effective and adequate compensation. The amount of such compensation shall be in accordance with the market value of the expropriated investment immediately prior to its expropriation or at the time the expropriation becomes public knowledge, whichever is earlier (hereinafter referred to as the "valuation date").

2. In the event of failure to reach agreement between the two Contracting Parties on the value of compensation, it shall be resolved in accordance with the provisions of Article 8 Dispute Settlement of this Agreement.

3. The market value shall be expressed in a freely convertible currency, at the exchange rate prevailing on the valuation date. The compensation shall be paid promptly, shall be effectively realizable and transferable in a freely convertible currency. The compensation shall include interest from the date of expropriation to the date of payment.

4. Where a Contracting Party expropriates the assets of an enterprise incorporated under the laws in force within its territory and in which investors of the other Contracting Party have an interest, it shall ensure the application of the provisions of this Article to guarantee adequate and effective compensation in respect of the investments of such investors of the other Contracting Party who are owners of those assets.

5. Investors of either Contracting Party who suffer losses of their investments in the territory of the other Contracting Party, due to war or any other armed conflict, state of national emergency, revolution, insurrection or mutiny, shall receive with respect to restitution, indemnification, compensation or other settlement, treatment no less favorable than that accorded to its own investors or investors of a third State, which is more favorable to the investor.

## **Article 6. Transfer**

1. Each Contracting Party shall ensure the free transfer of the profits of all investments made by the investor of the other Contracting Party in its territory and shall ensure the free transfer of all funds of the investor of the other Contracting Party relating to investments within its territory. Such investments may include, but shall not be limited to, the following:

a. amounts of capital and additional capital used to maintain and increase the investment;

b. Profits;

c. Repayments of any loans, including interest, related to investments;

d. Proceeds from the sale of its assets;

e. The proceeds received by investors in the event of sale, partial sale or liquidation;

f. The profits of natural persons of a Contracting Party or other foreign personnel working in connection with an investment in the territory of the other Contracting Party;

g. Payments resulting from an investment dispute;

h. Compensation in accordance with Article 5 of this Agreement.

2. Transfers under this Article shall be made promptly in freely convertible currency at the exchange rate applicable on the date of transfer.

3. The aforementioned transfers shall be made in accordance with the corresponding taxes.
4. The Contracting Parties shall grant, with respect to the transfers referred to in paragraphs 1 and 2 of this Article, treatment no less favorable than that accorded to transfers of investments originating from third States.
5. A Contracting Party may prevent a transfer by equitable, non-discriminatory and bona fide application as follows:
  - a. Bankruptcy, insolvency or the protection of creditors' rights;
  - b. Criminal or penal offenses;
  - c. Pursuant to court orders issued in legal proceedings on the enforcement of legal provisions relating exclusively to investments.

## **Article 7. Subrogation**

Where a Contracting Party or one of its authorized agencies has arranged compensation or insurance to cover non-commercial risks related to an investment made by any of its investors in the territory of the other Contracting Party and has made payment to such investors in respect of their claims under this Agreement, the other Contracting Party shall recognize the first Contracting Party or its authorized agencies by virtue of subrogation to exercise the rights and enforce the claims of such investors. The subrogated rights or claims shall not exceed the original rights or claims of such investors.

2. In case of subrogation, as defined in paragraph 1 of this Article, the investor shall not be entitled to make a claim, unless authorized to do so by the Contracting Party or its authorized agencies.

## **Article 8. Settlement of Disputes between a Contracting Party and an Investor of the other Contracting Party**

1. Any dispute concerning the provisions of this Agreement with respect to an investment between an investor of one Contracting Party and the other Contracting Party shall, to the extent possible, be settled by friendly consultations.
2. If such consultations cannot be settled in accordance with the provisions of paragraph 1 of this Article, within three (3) months from the date of the written request for settlement, the investor concerned shall, at its discretion, submit the settlement of the dispute to:
  - a. A competent tribunal of the host Contracting Party for resolution; or,
  - b. The International Centre for Settlement of Investment Disputes (ICSID), established by the Convention on the Settlement of Disputes between States and Nationals of Other States, signed on March 18, 1965, in Washington, D.C., if this convention is applicable to the Contracting Parties; or,
  - c. An Ad Hoc Tribunal, to be established under the 1976 United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules.

Once the investor has submitted its dispute to one of the above dispute settlement mechanisms, the investor shall not be entitled to resort to the other mechanisms.

3. The Ad Hoc Arbitral Tribunal specified in paragraph 2 (c) of this Article shall be established as follows:

- a. Each Contracting Party to the dispute shall appoint one arbitrator and the two appointed arbitrators shall, by mutual agreement, select a third arbitrator, who shall be a national of a third country, to act as President of the Tribunal.

All arbitrators must be appointed within 2 (two) months from the date of notification by one Party to the other Party of its intention to submit the dispute to arbitration.

- b. If the periods referred to in paragraph 3 (a) of this Article are not respected, either Contracting Party shall, in the absence of any other agreement, invite the Secretary General or the Deputy Secretary General of the Permanent Court of Arbitration at The Hague to make the corresponding appointments.

- c. The Ad Hoc Arbitral Tribunal shall take its decisions by majority vote. These decisions shall be final and binding on the Contracting Parties and shall be enforceable. Decisions shall be made in accordance with the following order: First, the provisions of this Agreement, and second, the principles of international law. Unless the Tribunal decides otherwise in special circumstances, each Party to the dispute shall bear the expenses of its representation in the arbitration proceedings; the cost of the arbitrators and the remaining costs shall be borne proportionately by the Parties to the dispute.

d. The Tribunal shall interpret its award and give the reasons and grounds for its decision at the request of either Contracting Party. Unless otherwise agreed by the Parties, the place of arbitration shall be at the seat of the Permanent Court of Arbitration in The Hague, The Netherlands.

4. No investment dispute may be submitted to arbitration under this Article if more than five (5) years have elapsed from the date on which the investor became aware of the alleged breach and the loss or damage allegedly incurred by it.

## **Article 9. Entry and Stay of Personnel**

A Contracting Party shall, subject to its domestic legislation relating to the entry and stay of aliens, permit nationals of the other Contracting Party to enter and remain in its territory for the purpose of investment-related activities.

## **Article 10. More Favorable Provisions**

If the domestic legislation of either Contracting Party or obligations under international law existing or hereafter established between the Contracting Parties, in addition to this Agreement, contains a provision, whether general or specific, authorizing investments by investors of the other Contracting Party to obtain more favorable treatment than provided in this Agreement, such provision shall, to the extent that it is more favorable to an investor, prevail over this Agreement.

2. Where the treatment accorded by a Contracting Party to investors of the other Contracting Party, in accordance with its domestic law or other provisions of a specific contract or investment authorization or Agreement, is more favorable than that provided for in this Agreement, the more favorable treatment shall apply.

## **Article 11. Denial of Benefits**

After notification, a Contracting Party may deny the benefit of this Agreement to:

1. an investor of the other Contracting Party that is a juridical person of that Contracting Party and to an investment of such investor, if the juridical person is owned or controlled by investors of a third State and the Contracting Party deciding on the denial, does not maintain diplomatic relations with the third State.
2. an investor of the other Contracting Party that is a juridical person of that Contracting Party and the investments of that investor, if an investor of a non-Contracting Party owns or controls the juridical person and such juridical person has no substantive business operations in the territory of the other Contracting Party.

## **Article 12. Entry Into Force**

1. This Agreement, or any amendment thereto, shall enter into force on the latest date on which either Contracting Party notifies the other that its domestic legal requirements for the entry into force of this Agreement or any amendment thereto have been fulfilled.

2. This Agreement may be amended in writing between the two Contracting Parties.

## **Article 13. Consultations**

The Contracting Parties may, at the request of either Contracting Party, hold consultations of any kind concerning the implementation or application of this Agreement. These consultations shall be held at the proposal of one of the Contracting Parties at a place and time to be agreed upon through diplomatic channels.

## **Article 14. Duration and Termination**

1. This Agreement shall remain in force for a period of 10 (ten) years and shall continue in force thereafter for similar periods, unless one year prior to the expiration of the initial period or any subsequent period, either Contracting Party notifies the other Contracting Party of its intention to terminate this Agreement.

2. The notice of termination shall become effective 1 (one) year after it has been received by the other Contracting Party.

3. With respect to investments made prior to the date on which the notice of termination becomes effective, the provisions of this Agreement shall remain in force for a period of 10 (ten) years from the date of termination of this Agreement.

In witness whereof, the undersigned, being fully authorized by their respective Governments, have signed this Agreement.

Subscribed at Doha, this 11th day of February 2018, in three original versions, in the English, Arabic and Spanish languages, all texts being equally authentic. In case of divergence in interpretation, the English text shall prevail.

For the Government of the Republic of Paraguay,

Gustavo Leite,

Minister of Industry and Commerce.

For the Government of the State of Qatar,

Sheikh Ahmed bin Jassim Al Thani,

Minister of Economy and Trade.