

Agreement between the Swiss Confederation and the Republic of Honduras on investment protection and promotion

The Government of the Swiss Confederation and the Government of the Republic of Honduras, wishing to strengthen the economic cooperation between the two States, in order to contribute to their economic development,

Desiring to create favourable conditions for investments companies or individuals of one of the two States in the territory of the other State,

Recognising the need to protect such investments in order to stimulate economic initiative, have decided to conclude the present agreement and have designated for this purpose their plenipotentiaries, namely:

The Government of the Swiss Confederation, Mr. Jean Humbert, Ambassador Extraordinary and Plenipotentiary of Switzerland to the Republic of Honduras;

The Government of the Republic of Honduras, Mr. Manuel Acosta Bonilla, Minister of Economy of the Republic of Honduras

Have agreed as follows:

Article 1.

1. Each of the High Contracting Parties undertakes to protect property invested in its territory by companies or individuals of the other Party and not to hinder by unjustified or discriminatory measures the management, maintenance, use, enjoyment, increase and, where appropriate, liquidation of such property. Each Party shall issue the necessary authorisations, in particular with regard to investments and the conclusion and execution of licensing, commercial, administrative or technical assistance contracts.

2. In particular, companies or individuals of one of the High Contracting Parties shall enjoy, in respect of their property in the territory of the other Party, fair and equitable treatment at least equal to that accorded by that Party to its nationals or, if more favourable, the treatment accorded to companies or individuals of the most favoured nation.

Article 2.

The most-favoured-nation treatment provided for in Article 1 of this Agreement shall not apply to facilities which one of the High Contracting Parties has granted or will grant to countries with which it is or will be bound by a free trade area or a customs union.

Article 3.

Each of the High Contracting Parties, in whose territory companies or individuals of the other Party have invested property or are engaged in business, shall grant to such companies or individuals the free transfer of

- (a) interest, dividends, profits and other income;
- (b) royalties and other payments derived from licence fees and commercial, administrative or technical assistance
- (c) depreciation and contractual repayments;
- (d) sums to cover the costs of managing investments;
- (e) additional capital contributions necessary for the maintenance or development of the invested assets
- (f) proceeds from the partial or total liquidation of investments, including any capital gains

(g) the proceeds of the work or activity carried out.

Article 4.

Neither of the High Contracting Parties may take any measures of expropriation, nationalisation or dispossession, direct or indirect, of property belonging to companies or individuals of the other Party, except for reasons of public utility and provided that such measures give rise to the payment of effective and adequate compensation in accordance with the law of nations. The amount of such compensation, which shall be fixed at the time of the expropriation, nationalisation or dispossession, shall be paid in a transferable currency and shall be paid without delay to the rightful claimant, wherever his residence or place of business may be.

Article 5.

Provisions more favourable than those of this Agreement which have been agreed by one of the High Contracting Parties with companies or individuals of the other Party shall remain reserved.

Article 6.

For the purposes of this Agreement

(a) "natural persons" are those persons who, under the law of each of the Contracting States, are considered as citizens of that State.

(b) "Companies" are

1) in the case of Switzerland, bodies, institutions or foundations having legal personality, as well as general or limited partnerships and other communities of persons without legal personality, which are constituted and organised under Swiss law or in which Swiss nationals have, directly or indirectly, a predominant interest;

2) in respect of Honduras, organisations or bodies having legal personality and those which, without having such personality, are constituted and organised under Costa Rican law or in which Costa Rican nationals have, directly or indirectly, a predominant interest.

(c) The terms "investments" or "property" include, in particular

1) movable and immovable property as well as any other real rights such as mortgages, pledges, security interests, usufruct and similar rights;

2) shares in companies and other forms of participation;

3) monetary claims and rights to all benefits having an economic value;

4) copyrights, trademarks, patents, technical processes, trade names, trademarks and goodwill;

5) concessions under public law, including concessions for research, extraction and exploitation of natural resources.

Article 7.

The High Contracting Parties agree to resolve amicably in the spirit of this Agreement any differences arising from the interpretation or implementation of its provisions. If they are unable to reach a satisfactory agreement within six months, the dispute shall be settled by arbitration. To form the arbitral tribunal each Party shall appoint an arbitrator. The two arbitrators appointed shall appoint a referee who shall be a national of a third State.

If one of the Parties has not appointed its arbitrator and has not complied with the invitation of the other Party to do so within two months, the arbitrator shall be appointed, at the request of the latter Party, by the President of the International Court of Justice.

If the two arbitrators cannot agree within two months of their appointment on the choice of a referee, the referee shall be appointed by the President of the International Court of Justice at the request of one of the Parties.

If, in the cases provided for in paragraphs 2 and 3 of this article, the President of the International Court of Justice is prevented from acting or if he is a national of one of the Parties, the appointments shall be made by the Vice-President. If the latter is prevented from acting or if he is a national of one of the Parties, the appointments shall be made by the most

senior member of the Court who is not a national of any of the Parties.

Unless the Parties provide otherwise, the Tribunal shall determine its own procedure.

The decisions of the Tribunal shall be binding on the Parties.

Article 8.

1. This Agreement shall enter into force as soon as each of the High Contracting Parties has notified the other that it has complied with the constitutional requirements for the conclusion and bringing into force of international agreements.

2. This Agreement is concluded for a period of five years.

If it is not denounced six months before the expiry of this period, it shall be considered renewed for a period of two years, and so on.

3. In the event of denunciation, the provisions of Articles 1 to 7 above shall continue to apply for a period of ten years of investments made before the denunciation.

Done at Tegucigalpa, this 20th day of July 1966 in duplicate in the French and Spanish languages, both texts being equally authentic.

For the Government of the Swiss Confederation:

Jean Humbert

For the Government of the Republic of Honduras:

Manuel Acosta Bonilla