Agreement between the Government of the French Republic and the Government of the Bolivarian Republic of Venezuela on the reciprocal encouragement and protection of investments

The Government of the French Republic and the Government of the Bolivarian Republic of Venezuela, hereinafter referred to as "the Contracting Parties",

Desiring to strengthen economic cooperation between the two States and to create favorable conditions for French investment in Venezuela and Venezuelan investment in France,

Convinced that the encouragement and protection of such investments will stimulate the transfer of capital and technology between the two countries, in the interest of their economic development,

Have agreed on the following provisions:

Article 1. Definitions

For the purposes of this Agreement

1. The term "investment" means all assets, such as property, rights and interests of any kind and, more particularly but not exclusively :

(a) Movable and immovable property, as well as all other real rights such as mortgages, liens, usufructs, bonds and all similar rights;

(b) Shares, share premiums and other forms of participation, even minority or indirect, in companies incorporated in the territory of one of the Contracting Parties;

(c) Bonds, debts and rights to any benefits of economic value;

(d) Intellectual, commercial and industrial property rights, such as copyrights, patents, licenses, trademarks, industrial models and designs, technical processes, know-how, registered names and goodwill;

(e) concessions granted by law or under contract, including concessions for the exploration, cultivation, extraction or exploitation of natural resources, including those in the maritime zone of the Contracting Parties.

It is understood that such assets must be or have been invested in accordance with the laws of the Contracting Party in whose territory or maritime area the investment is made, whether before or after the entry into force of this Agreement.

No change in the form of investment of the assets shall affect their characterization as an investment, provided that such change is not contrary to the law of the Contracting Party in whose territory or maritime area the investment is made.

2. The term "nationals" refers to natural persons possessing the nationality of one of the Contracting Parties.

3. The term "company" means :

- any legal person incorporated in the territory of one of the Contracting Parties, in accordance with the legislation of that Party, and having its registered office there, or

- any legal person which is effectively controlled, directly or indirectly, by nationals of one of the Contracting Parties, or by legal persons having their registered office in the territory of one of the Contracting Parties and formed in accordance with the laws thereof.

4. The term "income" means all sums produced by an investment, such as profits, royalties or interest.

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

5. This Agreement shall apply to the territory of each Contracting Party, defined in accordance with the laws of each Contracting Party, including its territorial waters, and to the maritime area of each Contracting Party, hereinafter defined as the economic zone and the continental shelf which extend beyond the limits of the territorial waters of each Contracting Party and over which they have or may have, in accordance with international law, sovereign rights and jurisdiction for the purpose of exploring, exploiting and conserving natural resources.

Article 2. Promotion and Admission of Investments

Each Contracting Party shall, within the framework of its legislation and the provisions of this Agreement, promote and admit investments made by the nationals and companies of the other Party in its territory and in its maritime zone.

Article 3. Rules and Principles

1. Each Contracting Party undertakes to ensure, in its territory and in its maritime zone, fair and equitable treatment, in accordance with the rules and principles of international law, of investments of nationals and companies of the other Party and to ensure that the exercise of the right so recognized is not hindered in law or in fact. In particular, although not exclusively, any arbitrary or discriminatory 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 deemed to be impediments in law or in fact to fair and equitable treatment.

2. Investments made by nationals or companies of either Contracting Party shall enjoy full protection and security in the territory and maritime zone of the other Contracting Party.

3. The Contracting Parties shall give sympathetic consideration, within the framework of their domestic legislation, to applications for entry and authorisation to reside, work and travel submitted by nationals of a Contracting Party who have made an investment in the territory or maritime area of the other Contracting Party or who perform managerial, executive, supervisory, advisory, technical or other specialised functions.

Article 4. National Treatment and Most-favoured Nation

Each Contracting Party shall, in its territory and maritime area, apply to the nationals or companies of the other Party, in respect of their investments and activities related to such investments, treatment no less favourable than that accorded to its nationals or companies, or the treatment accorded to the nationals or companies of the most favoured nation, whichever is more favourable. In this connection, nationals authorized to work in the territory and maritime area of one of the Contracting Parties shall not be denied access to appropriate physical facilities for the exercise of their professional activities.

This treatment shall not, however, extend to privileges which a Contracting Party grants to nationals or companies of a third State by virtue of its participation in or association with a free trade area, a customs union or a common market.

The provisions of this Article shall not apply to tax matters.

Article 5. Expropriation and Compensation

1. The Contracting Parties shall not take any measures of expropriation or nationalization or any other measures the effect of which is to deprive, directly or indirectly, the nationals and companies of the other Party of investments belonging to them in their territory and in their maritime zone, except in the public interest and provided that such measures are not discriminatory or contrary to any particular undertaking.

Any measures of expropriation which may be taken must give rise to the payment of prompt and adequate compensation, the amount of which, equal to the real value of the investments concerned, must be assessed in relation to the normal economic situation prevailing before any threat of expropriation became public knowledge.

This compensation, its amount and the terms of payment are fixed at the latest on the date of expropriation. This compensation is effectively realizable, paid without delay and freely transferable. It shall bear interest until the date of payment, calculated at the appropriate market interest rate.

2. The nationals or companies of one of the Contracting Parties whose investments have suffered losses as a result of war or any other armed conflict, revolution, state of national emergency or revolt occurring in the territory or maritime area of the other Contracting Party, shall receive from the latter treatment no less favourable than that accorded to its own nationals or companies or to those of the most favoured Nation.

Article 6. Free Transfer

Each Contracting Party shall, in the territory or maritime area of which investments have been made by nationals or companies of the other Contracting Party, accord to such nationals or companies the free transfer of:

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

(b) royalties derived from intangible rights referred to in paragraph 1(d) and (e) of Article 1

(c) Payments made for the repayment of loans regularly contracted;

(d) Proceeds from the sale or liquidation of the investment, in whole or in part, including capital gains on the investment;

(e) The compensation for expropriation or loss provided for in Article 5, paragraphs 1 and 2 above.

(f) Remuneration to nationals of each Contracting Party who have been authorized to work in the territory or maritime area of the other Contracting Party in connection with an investment.

The transfers referred to in the preceding paragraphs shall be made without delay at the normal rate of exchange officially applicable on the date of the transfer.

Article 7.

Insofar as the regulations of one of the Contracting Parties provide for a guarantee for investments made abroad, such guarantee may be granted, on a case-by-case basis, to investments made by nationals or companies of that Party in the territory or maritime zone of the other Party.

The investments of the nationals and companies of one of the Contracting Parties in the territory or maritime zone of the other Party may only obtain the guarantee referred to in the above paragraph if they have first obtained the approval of the latter Party, if necessary.

Article 8. Settlement of Disputes between an Investor and the Host State

1. Any dispute arising between a national or company of a Contracting Party and the other Contracting Party concerning the latter's obligation in respect of an investment under this Agreement shall be settled amicably between the two parties concerned.

2. If such a dispute has not been settled within six months from the time it was raised by either party to the dispute, it shall be submitted at the request of the national or company in question either to the competent court of the State in which the investment was made or to arbitration by the International Centre for Settlement of Investment Disputes (ICSID), established by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, signed in Washington on 18 March 1965. This option is at the discretion of the national or company concerned. Once the option is made in favor of arbitration, it becomes final.

3. The arbitral tribunal shall determine whether the Contracting Party to the dispute has complied with its obligations under the provisions of this agreement. If it has not, the tribunal shall determine the amount of compensation to be paid to the national or company party to the dispute.

4. The arbitration award shall be final and binding on the parties to the dispute.

Article 9. Subrogation

If one of the Contracting Parties, or an emanation thereof, makes a payment to an investor under a guarantee or insurance contract covering non-commercial risks concluded in connection with an investment, the other Contracting Party shall recognize the validity of the subrogation in favor of the first Contracting Party or its emanation of any right or title of which the investor is the beneficiary. The said payments shall not affect the rights of the beneficiary of the guarantee to have recourse to arbitration as provided for in Article 8 above or to pursue the actions brought before the center until the

procedure has been completed.

Article 10. More Favourable Provisions

Investments which have been the subject of a special undertaking by one of the Contracting Parties in respect of the nationals and companies of the other Contracting Party shall, without prejudice to the provisions of this Agreement, be governed by the terms of that undertaking insofar as it contains more favourable provisions than those provided for in this Agreement.

Article 11. Settlement of Disputes between Contracting Parties

1. Disputes between Contracting Parties concerning the interpretation or application of this Agreement shall be settled, if possible, through diplomatic channels.

2. If the dispute is not settled within six months of its being raised by either Contracting Party, it shall, at the request of either Contracting Party, be submitted to an arbitration tribunal.

3. The said tribunal shall be constituted, for each particular case, in the following manner: each Contracting Party shall appoint one member, and the two members shall appoint, by mutual agreement, a national of a third State who shall be appointed chairman of the tribunal by both Contracting Parties. All members shall be appointed within three months, and the chairman within five months, of the date on which one Contracting Party notifies the other Contracting Party of its intention to submit the dispute to arbitration.

4. If the time limits laid down in paragraph 3 have not been observed, either Contracting Party shall, in the absence of any other agreement, invite the Secretary-General of the United Nations to make the necessary appointments. If the Secretary-General is a national of either Contracting Party or is otherwise unable to serve, the most senior Deputy Secretary-General who is not a national of either Contracting Party shall make the necessary appointments.

5. The Arbitration Tribunal shall take its decisions by a majority vote. Such decisions shall be final and binding on the Contracting Parties.

The tribunal shall itself determine its own rules and interpret the award at the request of either Contracting Party. Unless the tribunal provides otherwise, taking into account particular circumstances, each Contracting Party shall bear its own costs, including the fees of its arbitrator. The other costs of the arbitration proceedings, including the fees of the chairman, shall be shared equally by the Contracting Parties.

Article 12. Entry Into Force and Duration of the Agreement

Each of the Parties shall notify the other of the completion of the internal procedures required for the entry into force of this agreement, which shall take effect one month after the date of receipt of the later of the two notifications.

The agreement is concluded for an initial period of fifteen years. It shall remain in force after that period unless one of the Contracting Parties denounces it through diplomatic channels with one year's notice.

Upon the expiration of the period of validity of this Agreement, investments made while it was in force shall continue to enjoy the protection of its provisions for an additional period of fifteen years.

Done in Caracas, on July 2, 2001, in two originals, each in the French and Spanish languages, both texts being equally authentic.

For the Government of the French Republic :

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For the Government of the Bolivarian Republic of Venezuela :

Luisa Romero Bermúdez,

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