

# SWEDEN - URUGUAY PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS TEXT OF THE AGREEMENT

## Article 1. Definitions

For the purposes of this Agreement:

1) The term investment means every kind of asset invested by an investor of one Contracting Party in the territory of the other Contracting Party, provided that the investment has been made in accordance with the laws and regulations of the latter and includes in particular, though not exclusively:

- a) Ownership of movable and immovable property as well as other rights in rem, such as mortgages, liens and pledges usufructs and similar rights;
- b) Actions and other forms of participation in companies;
- c) Claims or having any benefit economic value;
- d) Intellectual Property Rights, technical processes, trade names, know-how, key value and other similar rights; and
- e) Business concessions conferred by law, administrative decisions or under contract, including concessions to explore, develop, exploit or extract natural resources.

A change in the form in which assets are invested shall not affect their character as investments. the goods covered by a leasing agreement which are placed at the disposal of a lessee in the territory of one of the contracting parties by a lessor who is a national of the other contracting party or legal person located in the territory of that Contracting Party, shall be accorded treatment no less favourable than that an investment.

2) The term investor "means:

- a) Any natural person who is a national of a Contracting Party in accordance with its laws; and
- b) Any legal person having its seat in the territory of either of the contracting parties; and
- c) Any legal person constituted under the laws of a third country which is directly or indirectly controlled by an investor of either of the Contracting Parties

3) The term means the amounts yielded returns by an investment and in particular, though not exclusively, includes interests, capital gains, profits, dividends, royalties or fees.

4) The term territory means the territory of each Contracting Party as well as the maritime areas, including the seabed and subsoil, over which the contracting party exercises, in accordance with international law, sovereign rights or jurisdiction.

## Article 2. Promotion and Protection of Investments

1) Each Contracting Party shall, subject to its general policy in the field of foreign investment, promote investments in its territory by investors of the other Contracting Party and shall admit such investments in accordance with its legislation.

2) In accordance with the laws and regulations relating to the entry and sojourn of aliens, individuals working for an investor of one Contracting Party, as well as members of their household, shall be permitted to enter, stay in and leave the territory of the other contracting party for the purpose of carrying out activities associated with investments in the territory of the latter Contracting Party.

3) The investments made in accordance with the laws and regulations of the Contracting Party in whose territory they are undertaken, shall enjoy the full protection of this Agreement

## Article 3. Treatment of Investments

- 1) Each Contracting Party shall apply to investments made in its territory by investors of the other contracting party treatment not less favourable than that accorded to investments made by its own investors or by investors of third States, whichever is more favourable.
- 2) Each Contracting Party shall at all times fair and equitable treatment to investments by investors of the other Contracting Party and shall not hinder the management, maintenance, use, enjoyment or disposal thereof as well as the acquisition of goods and services or the sale of their production, through unreasonable or discriminatory measures.
- 3) Without prejudice to the provisions of paragraph (1) of this article, a Contracting Party which has made or may conclude an agreement regarding the formation of a customs union, a common market or a free trade area, shall be free to extend more favourable treatment to investments by investors of the State or States which are also Parties to such agreements, or by investors of some of these States.
- 4) The provisions of paragraph (1) of this article shall not be interpreted as an obligation of one contracting party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation matters.

#### **Article 4. Expropiacion and Compensation**

- 1) Neither of the Contracting Parties shall take measures of expropriation, nationalization or any other measures that deprive directly or indirectly by an investor of the other contracting party of an investment unless the following conditions are met:
  - a) The measures are taken in the public interest and under due process of law;
  - b) The measures are distinct and not discriminatory; and
  - c) The measures are accompanied by provisions for the payment of prompt, effective and adequate compensation, which shall be transferable without delay in a freely convertible currency.
- 2) The provisions of paragraph (1) of this article shall also apply to an income from investment and, as well as in the event of liquidation, to the result of such liquidation.
- 3) Investors of either Contracting Party who suffer losses of their investments in the territory of the other contracting party owing to war or other armed conflict, a national state of emergency, revolt, riot or insurrection, they shall agree, with respect to restitution, indemnification, compensation or other settlement, a treatment no less favourable than that accorded to its own investors to investors or of any third State. resulting payments shall be transferable without delay in a freely convertible currency.

#### **Article 5. Transfers**

- 1) Each Contracting Party shall allow the transfer without delay in a freely convertible currency of payments relating to an investment, such as:
  - a) The income;
  - b) The proceeds of the total or partial sale or liquidation of any investment made by an investor of the other contracting party;
  - c) The funds in repayment of loans; and
  - d) The remuneration of natural persons who are not nationals.
- 2) Transfers shall be made at the market exchange rate on the date of transfer with respect to spot transactions in the currency to be transferred.

#### **Article 6. Subrogacion**

If a Contracting Party or any of its agencies conduct a payment to one of its own investors under a guarantee it has engaged in connection with an investment made in the territory of the other contracting party, the latter shall, without prejudice to the rights of the first contracting party under the provisions of article 8, the transfer of any right or title to the former

investor of that Contracting Party or any of its agencies and the first subrogation of the Contracting Party or any of its agencies on any right or title of the investor.

## **Article 7. Disputes between an Investor and a Contracting Party**

1) Concerning an investment disputes arising under this agreement between an investor of one Contracting Party and the other contracting party, as far as possible be settled amicably.

2) If the dispute cannot be settled within six months of raised by either party may be submitted at the request of the investor:

- 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) of this article.

Once the investor has submitted the dispute to the aforementioned national jurisdiction or to international arbitration, the choice of one of these procedures is final, unless the parties to the dispute so agree otherwise.

3) In case of international arbitration, the dispute shall be submitted, at the choice of the investor to:

- The International Centre for the Settlement of Investment Disputes (ICSID) established by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, opened for signature at Washington on 18 March 1965, when both parties are contracting parties. until this provision does not apply, the dispute may be submitted to arbitration under the ICSID Additional Facility Rules for the administration of conciliation and arbitration procedures decision; or

- An arbitral tribunal established for each case with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL):

4) For the purpose of article 25 (2) (b) of the ICSID Convention and of this article, a company of a Contracting Party which is effectively controlled by investors of the other contracting party immediately before the occurrence of the event or events giving rise to a dispute by investments, shall be treated as a company of the other contracting party.

5) Each contracting party hereby consents to the submission of any investment dispute for settlement by arbitration binding under option established according to paragraph 3).

6) The arbitral tribunal shall decide in accordance with the provisions of this Agreement and the legislation of the Contracting Party involved in the dispute, including its rules on the Conflict of Laws, the terms of any specific agreement concluded in relation to the investment and the principles of international law.

7) The arbitral decisions shall be final and binding on the parties to the dispute. each Contracting Party shall execute the In accordance with its legislation.

8) Neither Contracting Party shall submit a claim with respect to a dispute has been submitted to the procedures of this article, unless the other Contracting Party has not been complied or comply with the ruling of the arbitral tribunal or that the judicial authorities of the latter Contracting party has breached an international standard, including the denial of justice, or the provisions of this Agreement.

## **Article 8. Disputes between the Contracting Parties**

1) Any dispute between the contracting parties concerning the interpretation or application of this Agreement shall, if possible, be settled by negotiations between the Governments of the two contracting parties.

2) If a dispute cannot be settled within six months following the date on which such negotiations were requested by either contracting party, be submitted at the request of either contracting party to an arbitral tribunal.

3) The arbitral tribunal shall be established for each individual case, each Contracting Party shall appoint one member. those two members shall select a national of a third State as Chairman of the Tribunal who shall be appointed by the Governments of the two contracting parties. the members shall be appointed within two months and the Chairman within four months from the date one Contracting Party has informed the other contracting party of its wish to submit the dispute to an arbitration tribunal.

4) If the time limits referred to in paragraph (3) of this article have not been complied with, either of the Contracting Parties, in the absence of any other agreement, invite the President of the International Court of Justice to make the necessary

appointments.

5) If the President of the International Court of Justice is prevented from fulfilling the function provided for in paragraph (4) of this article or is a national of either Contracting Party, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is prevented from discharging that function or if he is a national of either Contracting Party, the most senior member of the Court who is not prevented or is a national of either Contracting Party shall be invited to make the necessary appointments.

6) The arbitral tribunal shall reach its decision by a majority of votes, the decision shall be final and binding on the contracting parties. Each Contracting Party shall bear the costs of the member of the Tribunal and of its representation in the arbitral proceedings; the cost of the Chairman and the remaining costs shall be divided equally between the two contracting parties. The arbitral tribunal may, however, decide that a higher proportion of the costs be arranged by one of the Contracting Parties. The tribunal shall determine its own procedure.

## **Article 9. Application of Agreement**

1) This Agreement shall apply to all investments, whether made before or after its Entry into Force, but shall not apply to any dispute concerning an investment which has been raised or any claim concerning an investment which was settled before its Entry into Force.

2) This Agreement shall not apply to investments made by natural persons who are nationals of both contracting parties unless such persons have at the time of investment, its legal domicile outside the territory of the Contracting Party where the investment has been made.

3) This Agreement shall not restrict in any way the rights and benefits enjoyed by according to national jurisdiction or international law an investor of one Contracting Party in the territory of the other contracting party.

## **Article 10. Entry Into Force , Duration and Termination**

1) The Contracting Parties shall notify each other when their constitutional requirements for the Entry into Force of this Agreement have been fulfilled. The Agreement shall enter into force on the first day of the second month following the date of receipt of the last notification.

2) This Agreement shall remain in force for a period of twenty years. Thereafter it shall remain in force until the course of twelve months from the date on which either contracting party notifies in writing the other contracting party of its decision to terminate this Agreement.

3) With respect to investments made prior to the date when the notice of termination of this Agreement becomes effective, the provisions of articles 1 to 10 shall remain in force for a further period of twenty years from that date.

In WITNESS WHEREOF, the subscribed, duly authorized thereto, have signed the present Agreement.

Done at Stockholm on the seventeenth day of June 1997 in triplicate in Spanish and Swedish and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall be taken as a reference.