

# **AGREEMENT BETWEEN THE GOVERNMENT OF THE ITALIAN REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF PARAGUAY ON INVESTMENT PROMOTION AND PROTECTION**

The Government of the Italian Republic and the Government of the Republic of Paraguay (hereafter referred to as Contracting Parties),

Wishing to create favorable conditions for greater economic cooperation between the two countries, and in particular investment by investors of a Contracting Party in the territory of the other Contracting Party,

Recognizing that the promotion and mutual protection of such investments under the international agreements will help to stimulate entrepreneurial initiatives that are conducive to the prosperity of the two Contracting Parties,

Have agreed as follows:

## **Article 1. Definitions**

For the purposes of this Agreement:

1. "Investment" means any asset invested by natural or legal persons of a Contracting Party in the territory of the other, in accordance with the laws and regulations of that Contracting Party, irrespective of the legal form chosen.

Without prejudice to this general context, "investment" means in particular but not exclusively:

- a) Movable and immovable property, as well as any other real rights, provided they relate to an investment, including the real rights of third party property;
- b) Equity securities and bonds, shareholdings and any other title of credit, as well as government bonds and public securities in general;
- c) Financial claims or any other right for the service, with economic value, relating to investments, as well as reinvested earnings and capital gains;
- d) Copyright, trademarks, patents, industrial designs and other intellectual and industrial property rights, know-how, firm and goodwill;
- e) Any law of economic nature conferred by law or by contract, as well as any license and concession issued in accordance with the provisions in force for the exercise of economic activities, including prospecting, extraction and exploitation of natural resources;
- f) Any increase in the value of the original investment.

Any change in the form of the investment does not imply a change in its substance.

2. "Investor" means any natural or legal person of a Contracting Party which carries out investments in the territory of the other Contracting Party, as well as affiliates, associates and foreign subsidiaries which are in any way controlled by the persons or legal entities referred to above.

3. "Natural person" means any natural person who, by law, has the citizenship or nationality of either Contracting Party.

4. "Legal person" means, with reference to each Contracting Party, any entity having its registered office in the territory of one of them and recognized as public bodies, corporations of persons or of capital, foundations and associations, whether or not The responsibility is limited or not.

5. "Income" means the amount of an investment, including, but not limited to, profits or interest, income from interest,

capital gains, dividends, royalties or fees for assistance, technical services and other obligations.

6. "Territory" means:

a) For the Italian Republic, in addition to the land within the land borders, also the "maritime areas". The latter comprise marine and submarine areas on which the Contracting Parties have sovereignty or exercise, under international law, sovereignty or jurisdiction.

b) For the Republic of Paraguay, the territory of the State in which it has sovereignty or exercises, under international law, rights of jurisdiction.

7. "Investment Agreement" means an agreement between a Party (or its Agencies or Representatives) and an investor of the other Party in an investment.

8. "Access right" means the right to be allowed to make investments in the territory of the other Contracting Party, in accordance with the law in force.

## **Article 2. Purposes**

This Agreement shall apply to investments made in the territory of one of the Contracting Parties by investors of the other Contracting Party before or after the entry into force of this Agreement. This Agreement shall not apply to disputes, claims or disputes arising out of its entry into force.

## **Article 3. Promotion and Investment Protection**

1. Each Contracting Party shall interfere with the investors of the other Contracting Party to make investments in its territory.

2. Investors of one of the Contracting Parties shall have the right to enter into investment activities in the territory of the other Contracting Party under conditions not less favorable than those accorded under Article 4.1. Article 4.1.

3. The two Contracting Parties shall at all times provide fair and equitable treatment to investors of the other Contracting Party. The two Contracting Parties shall ensure that the management, maintenance, use, processing, enjoyment or transfer of investments made in its territory by investors of the other Contracting Party, as well as the companies and undertakings in which such investments have been made, are in no way affected by unjustified or discriminatory measures.

4. Each Contracting Party shall, in its territory, maintain a legal framework to guarantee investors the continuity of legal treatment, including, in good faith, the fulfillment of all commitments undertaken with respect to each individual investor.

5. The Contracting Party that has admitted an investment in its territory shall grant the permits necessary for the implementation of such investment, including the execution of technical, commercial or administrative assistance contracts. Each Contracting Party will facilitate, when required, the permits necessary for the activities of the management staff, consultants or other qualified persons of foreign nationality.

## **Article 4. National Treatment and Most Favored Country Clause**

1. The two Contracting Parties, within their territories, shall accord investment and related incomes of the investors of the other Contracting Party no less favorable treatment than that reserved for investments and the income of their own investors or those of third States.

2. Where, under the law of one of the Contracting Parties, or to the international commitments in force or which could enter into force for one of the Contracting Parties in the future, there would be a legal framework for the investors of the other Contracting Party to be accorded more favorable treatment than that provided for in this Agreement, the investors of the Contracting Party concerned shall be subject to the treatment reserved to the investors of those other Parties, including in the case of ongoing transactions, respecting in any case whatsoever laid down in Art. Paragraph 3, paragraph 2.

3. All activities of goods and services and investment operations shall enjoy, in the territory of each Contracting Party, a treatment no less favorable than that accorded to similar activities and transactions of resident nationals or investors of any other Third Country.

4. The provisions of paragraphs 1, 2 and 3 of this Article shall not apply to the advantages and privileges that a Contracting Party recognizes to investors of third countries as a result of its participation in a Customs or Economic Union, Common Market, Free Trade Area, Regional or Sub-Regional Agreements, an International Multilateral Economic Agreement or

Agreements concluded to avoid double taxation or to facilitate cross-border exchanges. 3. of this Article shall not apply to the advantages and privileges that a Contracting Party recognizes to investors of third countries as a result of its participation in a Customs or Economic Union, a Common Market, a Free Trade Area, Regional or sub-regional agreements, an international multilateral economic agreement, or agreements concluded to avoid double taxation or to facilitate cross-border exchanges.

## **Article 5. Compensation for Damages or Losses**

Investors of one of the Contracting Parties who incur losses or damages in their investments in the territory of the other Contracting Party due to war or other forms of armed conflict, revolutions, national emergency, rebellion, insurrection or rebellion in the territory of The Contracting Party concerned shall receive, with regard to the refund, compensation or other form of compensation, no less favorable treatment than that accorded to its own investors or investors of third countries.

## **Article 6. Nationalization or Espionage**

1. Investments referred to in this Agreement may not be subject to measures limiting the right of ownership, possession, control and enjoyment of such rights, whether fixed or indefinite, except where specifically provided for by the legislation in force.

2. Investors of one of the Contracting Parties shall not be "de jure" or "de facto" directly or indirectly nationalized, expropriated, subject or subject to measures having similar effects in the territory of the other Contracting Party, except for public purposes, interest Social, or for reasons of national interest, against fair, adequate, immediate and appropriate compensation and provided that such measures are taken on a non-discriminatory basis and in accordance with all legal provisions and procedures.

3. Fair compensation will be equivalent to the effective market value of the expropriated investment immediately before the date on which the nationalization or expropriation decision was announced or made public.

If there is any difficulty in determining the fair market value, it will be determined according to internationally recognized valuation standards. Compensation will be calculated in a currency convertible at the prevailing exchange rate applicable on the day when the decision to nationalize or expropriate has been announced or made public.

Compensation will include interest on the LIBOR basis, from the date of nationalization or expropriation to the date of payment.

4. In the event that the subject of the expropriation is a joint venture established in the territory of one of the Contracting Parties, the compensation payable to the investor of the other Contracting Party shall be calculated taking into account the share of that investor in the joint ventures, In accordance with its fundamental documents.

5. Any investor of any Contracting Party who claims that all or part of your investment has been expropriated shall have the right to an immediate examination of his case by the judicial or administrative authorities of the other Contracting Party.

6. If, after the expropriation, the investment in question has not been used, in whole or in part, for that purpose, the previous owner, or those who have the cause, will be able to repurchase at the market price.

## **Article 7. Transferring Capitals, Profits, Salaries, and Procedures**

1. Each of the Contracting Parties shall ensure that investors of the other Contracting Party may transfer abroad in any convertible currency without undue delay the following:

- a) Capital and additional capital shares, including reinvested earnings, used to maintain and increase investment;
- b) Net income, dividends, royalties, fees for assistance and technical services, interests and other profits;
- c) Income from the sale or the total or partial liquidation of an investment;
- d) Funds for the repayment of loans relating to an investment and the payment of interest thereon;
- e) Remuneration and benefits received by citizens of the other Contracting Party for activities and services carried out in connection with an investment made in the territory of the other Contracting Party, to the extent and in accordance with the procedures laid down by the laws and regulations in force in force;
- f) The payments provided for in Articles 5 and 6. Articles 5 and 6.

2. Without prejudice to the scope of Article 3 of this Agreement, the Contracting Parties undertake to grant the transfers referred to in paragraph 1 of this Article the same preferential treatment reserved to third-country investors, if they are more favorable. Article 3 This Agreement, the Contracting Parties undertake to grant the transfers referred to in paragraph 1 of this Article the same preferential treatment reserved for those made by third-country investors, whichever is the more favorable.

3. The transfers referred to in paragraph 1 shall be made without undue delay, and in any event within six months of the fulfillment of the tax obligations. Such transfers shall be carried out in a currency convertible to the prevailing exchange rate applicable on the date on which the investor requests the transfer, with the exception of Article 6 (3) of the exchange rate applicable in the event of nationalization or expropriation Paragraph 1 shall be made without undue delay, and in any event within six months of the fulfillment of the tax obligations. Such transfers shall be carried out in a currency convertible to the prevailing exchange rate applicable on the date on which the investor requests the transfer, with the exception of Article 6 (3) of the exchange rate applicable in the event of nationalization or expropriation .

4. The obligations referred to in the preceding paragraph shall be deemed to have been fulfilled when the investor has performed the procedures provided for by the law of the Contracting Party in whose territory the investment was made.

## **Article 8. Subrogation**

In the event that a Contracting Party or its institution has granted an insurance against non-commercial risks for investments made by an investor in the territory of the other Contracting Party and has made payments under the guarantee granted, the other Contracting Party shall recognize The surrogate of the investor's rights to the first Contracting Party. For the transfer of payments to be made to the Contracting Party or its institution by virtue of such surrogacy, the provisions of the preceding Article shall apply.

## **Article 9. Settlement Disputes between Investors and Contracting Parties**

1. Disputes arising between a Contracting Party and investors of the other Contracting Party concerning the application and interpretation of this Agreement shall, as far as possible, be composed in a friendly manner.

2. In the event that an investor and an entity of one of the parties have entered into an investment agreement, the procedure foreseen in that agreement will apply.

3. Where such disputes can not be resolved amicably within six months of the date of the written request for settlement, the investor concerned shall, at his option, submit to him / her:

a) To the Court of the Contracting Party competent for the territory;

b) To an ad hoc Arbitral Tribunal, in accordance with the Arbitration Rules of the United Nations Commission on International Commercial Law (UNCITRAL), and the Contracting Party receiving the investment agrees to accept the referral to that arbitration;

c) To the International Center for Dispute Settlement (ICSID) on investment for the application of the arbitration procedures provided for in the Washington Convention of 18 March 1965 on the settlement of disputes concerning investments between States and nationals of other States, if or not The Contracting Parties have acceded to you.

The option for one of these procedures will be definitive and irreversible.

4. The two Contracting Parties shall refrain from dealing diplomatically with questions of arbitration or ongoing proceedings until such proceedings have been concluded and one of the Contracting Parties has failed to comply with the judgment of the Arbitral Tribunal or the judgment of another Tribunal within the Terms prescribed by the award or judgment.

## **Article 10. Composition of Contracts between the Contracting Parties**

1. Disputes arising between the Contracting Parties on the interpretation and application of this Agreement shall, as far as possible, be amicably composed by diplomatic means.

2. In the event that such disputes can not be made within six months of the date on which one of the Contracting Parties has made a written request to the other Contracting Party, they shall, on the initiative of one of the Contracting Parties, submit to an Arbitral Tribunal Ad hoc in accordance with the provisions of this Article.

3. The Arbitral Tribunal shall be constituted as follows: within two months from the date of receipt of the request for

arbitration, each Contracting Party shall appoint a member of the Tribunal. The Chairman shall be appointed within three months of the appointment of the two members.

4. If, within the time limit referred to in paragraph 3 of this Article, appointments have not yet been made by each of the two Contracting Parties, they may, if they fail to do so, apply to the President of the International Court of Justice. If he is a citizen of one of the Contracting Parties, or for whatever reason he is not able to proceed with the nomination, he will be asked to the Vice President of the Court. If the Vice President is a citizen of one of the Contracting Parties or for whatever reason can not make appointments, he will be invited to provide the member of the International Court of Justice older than he is not a citizen of one of the Contracting Parties. paragraph 3 Of this Article, appointments have not yet been made by each of the two Contracting Parties, unless otherwise agreed, they may apply to be made to the President of the International Court of Justice. If he is a citizen of one of the Contracting Parties, or for whatever reason he is not able to proceed with the nomination, he will be asked to the Vice President of the Court. In case the Vice President is a citizen of one of the Contracting Parties, or for any reason can not make appointments, he will be invited to provide the member of the International Court of Justice older than a citizen of one of the Contracting Parties.

5. The Arbitral Tribunal will decide by majority vote and its decisions will be binding. The two Contracting Parties shall bear the expenses of their arbitrator and those of their representatives at the hearings. The expenses of the President and the remaining expenses shall be borne by the two Contracting Parties equally. The Arbitral Tribunal will establish its own procedures.

## **Article 11. Relations between Governments**

The provisions of this Agreement shall apply irrespective of the existence or not of diplomatic or consular relations between the Contracting Parties.

## **Article 12. Applying Miscellaneous Provisions**

1. If a matter is governed both by this Agreement and by another International Agreement to which the two Contracting Parties have expressed, or by rules of general international law, the Contracting Parties themselves and their investors shall apply the most favorable provisions.

2. Where, by virtue of laws and regulations, or other provisions or specific contracts, such as authorizations or investment agreements, a Contracting Party has reserved to investors of the other Contracting Party a more favorable treatment than that provided for in this Agreement, favorable.

## **Article 13. Entry Into Vigor, Duration and Expiration**

1. This Agreement shall enter into force 30 days after the date of receipt of the second notification by which the two Contracting Parties have been notified of the completion of their respective constitutional procedures.

2. This Agreement shall remain in force for 10 years from the date of its entry into force and shall be automatically extended for periods of five years until one of the Contracting Parties denounces it in writing, in which case it shall cease to have effect one year after the date Of the notice of denunciation.

3. For investments made before the expiry date of this Agreement, the provisions of Articles 1 to 12 shall remain in force for a further period of five years from that date. Articles 1 to 12 shall remain in force for a further period of five years From the above date.

DONE at Rome on the 15th day of July, one thousand nine hundred and ninety-nine, in two copies, each in the Italian and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE ITALIAN REPUBLIC

PATRIZIA TOIA

Undersecretary for Foreign Affairs

FOR THE GOVERNMENT OF THE REPUBLIC OF PARAGUAY

CARLOS MATEO BALMELLI

Deputy Minister for Foreign Affairs