

# Agreement between the Kingdom of Denmark and the Republic of Paraguay's Government on the promotion and reciprocal protection of investments

Preamble

The Government of the Kingdom of Denmark and the Government of the Republic of Paraguay

DESIRING to create favorable conditions for investments in both States to intensify cooperation between private enterprises in both States with a view to stimulating the productive use of resources; and

RECOGNIZING that a fair and equitable treatment of investments on a reciprocal basis will serve this aim,

HAVE AGREED as follows:

## Article 1. Definitions

In this Agreement

(1) The term "investment" means any kind of asset connected with economic activities acquired for the purpose of establishing lasting economic relations between investors and companies, regardless of their legal form, including joint ventures and equity investments, to which investors are entitled and any capital gains and, in particular, but not exclusively:

(i) shares or any other form of participations in companies that are registered at any of the Contracting Parties' territory;

(ii) returns reinvested, claims to money and other assets on the benefits of financial value;

(iii) movable and immovable property and all other rights, such as mortgages, special rights, guarantees and all other similar rights, defined in accordance with the Contracting Party applicable laws in the territory where the property in question is situated;

(iv) Patents, copyrights, technology, trademarks, goodwill, know-how and any other similar rights;

(v) business concessions conferred by law or by contract, including rights related to natural resources;

(vi) The assets of a rental agreement in connection with an investment by the provisions of this Agreement shall be made available for a tenant of one Contracting Party in accordance with the Party's laws and regulations are not treated less favorably than an investment.

(2) the term "proceeds" means the amount yielded by an investment and in particular, but not exclusively, profits, interest, capital gains, dividends, royalties or fees. These amounts and reinvested amounts resulting from the reinvestment shall enjoy the same protection as the investment.

(3) The term "investor" for both contracting parties concerned:

(a) any natural person who is a national of a Contracting Party State under that Party's applicable laws;

(b) any entity established in accordance with, and recognized as a legal person under a Contracting Party's law, such as associations, companies, associations, financial institutions in the development sector, foundations or similar entities, whether they may have limited liability and whether their activities may be directed at profit.

(4) the term "territory":

(i) as regards the Kingdom of Denmark: the territory covered by the Kingdom of Denmark's sovereignty and the sea and submarine areas over which the Kingdom of Denmark, in accordance with international law exercises sovereignty, sovereign

rights or jurisdiction;

(ii) as regards the Republic of Paraguay: the territory covered by the sovereignty of the Republic of Paraguay;

(5) the term "Contracting Party" depending on context: the Kingdom of Denmark or the Republic of Paraguay.

(6) the term "without delay" shall be considered fulfilled if a transfer is made within such period as is normally required by international financial custom, and in no case later than three months.

## **Article 2. Investment Promotion**

Each Contracting State shall in Conformity to exude lse with its laws and regulations permit investments by investors of the other Contracting Party and as far as possible promote such investment, including promoting the establishment of representative offices.

## **Article 3. Investment Protection**

(1) Investments of investors of either Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security on the other Contracting Party. Neither Party shall in any way impair by unreasonable and discriminatory measures make it more difficult for the other Contracting Party to manage, maintain, use, possess or liquidate investments of the former Contracting Party. Each Contracting Party shall observe any obligations it may have entered into relating to investments from the other Contracting Party.

(2) No Contracting Party may delay the investments of the other Contracting Party to treatment less favorable than that accorded to investments or dividends accruing to its own investors or investors from a third country (the seen from the investor's point of view most favorable treatment).

(3) No Contracting Party may delay the other Contracting Party for less favorable treatment of their investments or dividends in terms of management, maintenance, use, enjoyment or disposal than that accorded to its own investors or investors from a third country (the seen from the investor's point of view most favorable treatment).

## **Article 4. Exceptions**

(1) The provisions of this Agreement regarding the confession by a no less favorable treatment than that accorded to investors of the Contracting Parties or investors from a third country should not be construed as a commitment by one Contracting Party to investors of the other Contracting party benefits of a particular treatment, specific rights or privileges derived from:

(a) any existing or future customs union, regional economic organizations or similar international agreement to which any of the Contracting Parties is or may become a party;

(b) any international agreement or arrangement or any domestic legislation wholly or mainly to taxation.

(2) The provisions of this Agreement, Article 7.1, must be used in accordance with multilateral agreements to which any of the Contracting Parties is or may become a party, regardless of each Contracting Party shall be entitled to take preventive measures against capital.

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

Investments by a Contracting Party shall not be nationalized, expropriated or subjected to measures having effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation") of the other Contracting Party, unless it serves a public purpose related to the expropriating party internal needs and provided that this is done on a non-discriminatory basis and against prompt, adequate and effective compensation. Such compensation shall amount to the market value of the expropriated investment immediately before the expropriation or impending expropriation became public knowledge, be paid without delay and bear interest at a normal commercial rate until the date of payment, shall be freely transferable in a convertible currency and shall be freely transferable. The affected investor is statutory entitled to immediately challenge the legality of the investment against the measure taken and of the valuation in accordance with the present paragraph. principles laid down by the action of the expropriating Party.

## **Article 6. Compensation for Losses**

Investors of one Contracting Party whose investments in the other Contracting Party suffer losses owing to war or armed conflict, revolution, national state of emergency / revolt, insurrection or riot in the latter Contracting Party, the latter Contracting Party shall be accorded treatment in form of restitution, compensation or other settlement, which must not be less favorable than the latter Contracting party to its own investors or investors from a third country (the seen from the investor's point of view most favorable treatment). Payments arising from the provisions of this Article shall be freely transferable, payable without delay, interest at a normal commercial rate until the date of payment and shall be freely transferable in a convertible currency.

## **Article 7. Repatriation and Transfer of Capital and Profits**

(1) Each Contracting Party shall without delay allow the transfer of:

- (a) the invested capital or the proceeds of total or partial liquidation or alienation of the investment;
- (b) The returns realized;
- (c) payments made for the reimbursement of loans for investments and interests due;
- (d) an approved portion of the proceeds from the people in exile, who are allowed to work in connection with an investment in the other Contracting Party.

(2) Currency Transfers under Articles 5 and 6 of this Article. 1 to be made in the convertible currency in which the investment is made, or in any other convertible currency agreed with the investor. The transfers shall be made to the transfer sheet date exchange rate.

## **Article 8. Subrogation**

If a Contracting Party or its designated agency makes payment to its own investors under a guarantee agreement with respect to an investment in the other Contracting Party, the latter Contracting Party shall recognize:

- (a) the transfer of any right or claim from the investor to the former Contracting Party or its designated agency, whether such a transfer is made under the Act or an established legal transaction in that State; and
- (b) that the former Contracting Party or its designated agency is entitled by virtue of subrogation to exercise the investor's rights and enforce investor claims and to assume the obligations related to the investment.

## **Article 9. Disputes between a Contracting Party and an Investor**

(1) Any dispute which may arise between an investor of one Contracting Party and the other Contracting Party regarding an investment in the latter Contracting Party shall be settled through negotiations between the parties involved.

(2) If the dispute can not be settled within three months of submission of the request for negotiations, the matter may be brought by the investor either:

- To the competent court of the Contracting Party in whose territory the investment was made; or
- To international arbitration of the International Centre for Settlement of Investment Disputes (ICSID) under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, signed in Washington March 18, 1965, after the investor has referred the matter to the competent court of the Contracting party in whose territory the investment was made, or to international arbitration. That choice must be regarded as final.

(3) This article shall be given any legal person established under a Contracting Party's applicable laws and where the majority of shares in the dispute belonging to investors of the other Contracting Party the treatment in Article 25 (2) (b) in the indicated Washington Convention provided for legal persons from the other Contracting State.

(4) The Arbitration Court's decision is final and binding on both parties.

## **Article 10. Disputes between the Contracting Parties**

(1) Disputes between the Contracting Parties concerning the interpretation and application of this Agreement should as far as possible be settled through negotiations between the Contracting Parties.

(2) If such a dispute has not been settled within three months after the start of negotiations, the request of either

Contracting Party to an arbitration tribunal.

(3) Such an arbitral tribunal constituted for each individual case in the following way:

Within three months of receiving the arbitration request designate each Contracting Party a member of the tribunal. Those two members shall then elect a national of a third country, as with the Contracting Parties approval shall be appointed Chairman of the tribunal. Chairman shall be appointed within three months from the date of appointment of the other two members.

(4) If the necessary appointments have not been made within the specified deadlines, each Contracting Party in the absence of other agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of either Contracting Party State or if he is prevented from discharging the said function, the deputy's Office requested to make the necessary appointments.

If the Vice President is a national of either Contracting Party State or if he too is prevented from discharging the said function, the member of the International Court of Justice, which is the next in seniority who is not a national of a Contracting Party State urged to make the necessary appointments.

(5) The arbitral tribunal shall apply the provisions of this Agreement, other Agreements concluded between the contracting parties and the applicable principles of international law. It shall take its decision by majority vote. Such decision shall be final and binding on both parties. The arbitral tribunal shall determine its own rules of procedure.

(6) Each Contracting Party shall bear the cost of its own member of the tribunal and of its representation in the arbitration proceedings. The cost of the chairman and the other costs shall be borne equally by the Contracting Parties.

## **Article 11. Amendments**

Upon entry into force of this Agreement or at a later date, the provisions of this Agreement may be amended in such a way that the Contracting Parties may agree. Such amendments shall enter into force when the Contracting Parties have notified each other that the constitutional requirements for the entry into force have been met.

## **Article 12. Consultations**

Each Contracting Party may propose the other Contracting Party consultations on all issues of importance for the application of this Agreement. Such consultations shall be held at the request of one of the contracting parties at the place and time agreed upon through diplomatic channels.

## **Article 13. General Scope**

This agreement shall apply to investments made on one of the Contracting Parties Territory by investors of the other Contracting Party before or after this Agreement enters into force under the Contracting Party's legislation. The Agreement shall not apply to disputes which may have arisen before its entry into force.

## **Article 14. Territorial Expansion**

With regard to Article 1 of this Convention shall not apply to the Faroe Islands and Greenland.

Provisions of the Agreement may be extended to apply to the Faroe Islands and Greenland as mutually agreed by exchange of notes between the Contracting Parties.

## **Article 15. Entry**

This Agreement shall enter into force thirty days after the date on which the Contracting Parties Governments have notified each other that the constitutional requirements for the entry into force have been met.

## **Article 16. Duration and Termination**

(1) This Agreement shall remain in force for ten years and shall thereafter remain in force unless one of the Contracting Parties after the first ten years writing the other Contracting Party that it intends to terminate this Agreement. Notice of termination shall take effect one year after it is received by the other Contracting Party.

(2) With respect to investments made before the date on which the notice of this Agreement termination becomes effective, the provisions of Articles 1 to 10 remain in force for a further ten years from that date to run.

IN WITNESS WHEREOF the undersigned, duly authorized by their respective governments, have signed this Agreement.

DONE in duplicate at..... on.....in Danish, Spanish and English languages, all texts being equally authentic.

In case of divergence of interpretation, the English text shall prevail.