Agreement for the reciprocal promotion and protection of investments between the Kingdom of Spain and the Republic of Venezuela.

Agreement between the Kingdom of Spain and the Republic of Venezuela for the Promotion and Reciprocal Protection of Investments

The Kingdom of Spain and the Republic of Venezuela, hereinafter referred to as the contracting parties, "

Desiring to intensify economic cooperation in the mutual benefit of both countries;

Aiming to create favourable conditions for investments by investors of either Contracting Party in the territory of the other party,

And

Recognizing that the promotion and protection of investments under this Agreement stimulate the initiativas in this field,

Have agreed as follows:

Article I. Definitions

For the purposes of this Agreement:

1. "investors" means:

a) Natural persons having the nationality of a Contracting Party according to its legislation and investments in the territory of the other contracting party.

b) Legal entities including companies, associations of companies, corporations, branches and other organizations, which are duly constituted or otherwise organized under the law of that Contracting Party, as well as those that are incorporated in one of the Contracting Parties and are effectively controlled by investors of the other contracting party.

2. "investment" shall mean every kind of assets invested by investors of one Contracting Party in the territory of the other Contracting Party and, in particular, though not exclusively, the following:

a) Titles, stocks, debentures and any other form of participation in companies;

b) Rights derived from any contributions with the aim of creating economic value; explicitly included all those loans for this purpose;

c) Movable and immovable property as well as other rights in rem such as mortgages, pledge, usufructs and similar rights;

d) Any rights in the field of intellectual property, including express patents and trademarks, trade and licensing of manufacture, know-how and goodwill;

e) Rights to undertake economic and commercial activities conferred by law or under contract, including those relating to prospecting, cultivate, extract or exploit natural resources.

3. The term "investment income refers to the returns derived from an investment in accordance with the definition contained in the preceding point and includes in particular, though not exclusively, interests, profits, dividends, royalties, capital gains.

4. The term "territory" means the land territory and territorial sea of each Contracting Party as well as the exclusive economic zone and the continental shelf extends beyond the limits of the territorial waters of each of the Contracting

Parties on which they are or may be in accordance with international law, sovereign rights and jurisdiction for the purpose of exploration and exploitation and preservation of natural resources.

Article II. Promotion , Admission and Scope of Application

1. Each Contracting Party shall promote investments in its territory by investors of the other Contracting Party and shall admit according to its laws.

2. With the aim of significantly increase reciprocal promotion of investment, the Contracting Parties shall inform each other and in detail on the investment opportunities in its territory.

3. This Agreement shall also apply to investments made before its entry into force by investors of one Contracting Party in accordance with the laws of the other Contracting Party in the territory of the latter. it shall apply to disputes regarding events which occurred prior to its Entry into Force.

Article III. Protection

1. Each Contracting Party shall accord full protection and security in accordance with international law to investments made in its territory by investors of the other Contracting Party and shall not hinder Discriminatory Measures Arbitrary or by the management, maintenance, use, enjoyment, extension and sale or, where appropriate, the liquidation of such investments.

2. Each Contracting Party shall endeavour to grant the necessary permits in connection with such investments and shall, within the framework of its laws, enforcement of labour contracts, licence manufacture, technical assistance, commercial, financial and administrative.

3. Each Contracting Party shall also give, whenever necessary, the necessary authorizations concerning the activities of consultants and experts appointed by investors of the other contracting party.

4. Each Contracting Party shall observe any obligation it has assumed with regard to the treatment of investments made by investors of the other contracting party.

Article IV. Treatment

1. Each Contracting Party shall in its territory a fair and equitable treatment, in accordance with international law, to investments made by investors of the other contracting party.

2. This treatment shall not be less favourable than that granted by each contracting party returns to investments and obtained in its territory by its own investors to investors or of any third State.

3. This treatment shall not apply, however, to privileges which either Contracting Party accords to investors of a third State by virtue of its participation or association with any existing or future customs union, or under any other international agreement of similar characteristics.

4. The treatment granted under the present article shall not extend to deductions and tax exemptions or other similar privileges granted by either contracting party to investors of third States by virtue of an agreement for the avoidance of double taxation or any other arrangement relating to taxation.

Article V. Expropriation and Nationalization

1. The investments made in the territory of a Contracting Party to the investors of the other Contracting Party shall not be subjected to any expropriation or nationalization or other characteristics of any measures or similar effects except that any such measures shall be made exclusively for reasons of public utitidad, in accordance with the laws, on a non-discriminatory basis and compensation to the investor or its successor of prompt, effective and adequate compensation.

2. The compensation for the acts referred to in paragraph 1 must be equivalent to the real value of the investment immediately before the measures are taken or before they were announced or published, whichever is earlier. the compensation shall be paid without delay in a freely convertible currency and shall be freely transferable realisable effectively and in accordance with the rules laid down in article 1 vii.párrafo shall be equivalent to the real value of the investment immediately before the measures are taken or before they were announced or published, whichever is earlier. the compensation shall be paid without delay in a freely convertible currency and shall be freely transferable realisable effectively and in accordance with the rules laid down in article VII.

3. Where a Contracting Party takes any measures referred to in the preceding paragraphs of this article under the assets of a company constituted under the law in force in any part of its own territory, and in which there is participation of investors of the other Contracting Party shall guarantee to a prompt, adequate and effective compensation in accordance with the provisions referred to in the preceding paragraphs of this article.

Article VI. Compensation for Losses

Investors of one Contracting Party whose investments or returns of investments in the territory of the other contracting party suffer losses owing to war or other armed conflict, a national state of emergency, revolt or riot or other similar circumstances, including losses from requisition, shall be accorded to restitution, indemnification, compensation or other settlement, a treatment no less favourable than that which the latter Contracting Party accords to its own investors to investors or of any third State.

Article VII. Transfers

1. Each Contracting Party shall guarantee to investors of the other contracting party, with regard to investments in its territory, the unrestricted transfer of payments relating to the same and in particular, though not exclusively, the following:

a) The investment income as defined in Article I

b) The compensation referred to in Article V

c) The compensation referred to in article VI

d) The proceeds from the sale or the total or partial liquidation of investments;

e) The amounts required for the repayment of loans related to an investment;

f) The amounts necessary for the acquisition of raw or auxiliary semifinished or finished products, or to replace capital assets or any other amounts necessary for the maintenance and development of the investment;

g) Salaries, wages and other remunerations received by the nationals of the Contracting Party accepting the investment in connection with serving as an investment managers, technical advisers or specialized workers.

2. The Contracting Party accepting the investment shall guarantee to the investors of the other contracting party, in a non-discriminatory manner, the possibility of acquiring the necessary for currency transfers under this article.

3. The transfers referred to in the present Agreement shall be made without delay in the convertible currency agreed by the investor and at the rate of exchange applicable on the date of transfer.

4. The Contracting Parties undertake to facilitate procedures, when necessary, to make such transfers without delay or restrictions in accordance with the practices of international financial centres. in particular, they shall not exceed three months from the date on which the investor has duly submitted applications necessary for the transfer until the date on which the transfer is made.

5. Contracting Parties shall accord to the transfers referred to in this article a treatment no less favourable than that accorded to transfers originating by investors of any third State.

Article VIII. More Favourable Terms

1. If the provisions of law of either Contracting Party or obligations under international law than this agreement, current or future between the contracting parties result in a general or special rules under which must be accorded to investments of investors of the other contracting party to a more favourable treatment than that provided for by the present Agreement, such rules shall prevail over the present Agreement, as is more favourable.

2. More favourable terms than those of this Agreement which have been agreed to by one of the Contracting Parties with investors of the other Contracting Party shall not be affected by this Agreement.

Article IX. Principle of Subrogation

If a Contracting Party or an entity designated by it has provided any financial guarantee on non-commercial risks in connection with an investment made by its investors in the territory of the other contracting party, the latter shall accept the

subrogation of the first Contracting Party or its Entities in the economic rights of the investor, from the first time that the contracting party or its Agency has made a payment under the guarantee granted. the subrogation will ensure that the first Contracting Party or its entities are direct beneficiaries of any payments of compensation to the investor might be secured.

As regards property rights, use, enjoyment or any other right, the subrogation shall take place only after obtaining the relevant authorisations in accordance with the legislacóon in force of the Contracting Party where the investment was made.

Article X. Disputes between the Contracting Parties

1. Any dispute between the contracting parties concerning the interpretation or application of this Agreement shall be settled amicably, as far as possible.

2. If the dispute cannot be settled in this way within six months from the beginning of negotiations, the dispute shall be submitted, at the request of either of the two contracting parties to an arbitration tribunal.

3. The arbitration tribunal shall be constituted as follows: each Contracting Party shall appoint one arbitrator and these two arbitrators shall elect a national of a third State as Chairman. the arbitrators shall be appointed within three months and the Chairman within five months from the date on which either Contracting Party has informed the other contracting party of its intention to submit the dispute to an arbitration tribunal.

4. If one of the Contracting Parties has not appointed its arbitrator within the deadline, the other Contracting Party may invite the President of the International Court of Justice to make the appointment. if the two arbitrators cannot reach an agreement on the appointment of the third arbitrator within the prescribed period, either Contracting Party may invite the President of the International Court of Justice to make the appointment.

5. If in the cases referred to in paragraph 4 of this article, the President of the International Court of Justice cannot discharge the said function or is a national of either Contracting Party, the Vice-President shall be invited to make the necessary appointments.

If the Vice-President cannot discharge the said function or is a national of either Contracting Party, the appointment shall be made by the most senior member of the Court who is not a national of either of the Contracting Parties.

6. The arbitration tribunal shall deliver its opinion on the basis of the rules contained in this Agreement or in other agreements in force between the contracting parties, and the principles of international law.

7. Unless the Contracting Parties decide otherwise, the tribunal shall determine its own procedure.

8. The tribunal shall reach its decision by a majority of votes and shall be final and binding on both contracting parties.

9. Each Contracting Party shall bear the costs of the arbitrator appointed by it and its representation in the arbitral proceedings. The other expenses, including the President, shall be borne in equal parts by both contracting parties.

Article XI. Disputes between Investors and a Contracting Party of the other Contracting Party

1. Any dispute between an investor of one Contracting Party and the other contracting party regarding compliance with the obligations set forth in this Agreement shall be notified in writing, including detailed information by the investor Contracting Party to the recipient of the investment. to the extent possible, the parties to the dispute seek to settle the dispute by means of a friendly settlement.

2. If the dispute cannot be settled in this way within six months from the date of the written notification mentioned in paragraph 1 shall be submitted at the choice of the investor, be submitted: paragraph 1 at the choice of the investor:

a) The competent courts of the Contracting Party in whose territory the investment was made; or

b) 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 each State Party to this Agreement has acceded to it. if one of the Contracting Parties has not acceded to that Convention, against the additional facility for the administration of conciliation or arbitration proceedings and fact-finding by ICSID of the Secretariat;

3. If they are not available for any reason arbitral bodies referred to in paragraph 2 (b) of this article or if the parties so agree, the dispute shall be submitted to an ad hoc arbitral tribunal established under the Arbitration Rules of the United

Nations Commission on International Trade Law international.

4. The arbitration shall be based on:

a) The provisions of this Agreement and any other agreements concluded between the contracting parties;

b) The rules and principles of International Law;

c) The national law of the Contracting Party in whose territory the investment was made, including the rules relating to conflicts of law.

5. The arbitral award shall be limited to determine whether there is a breach by a contracting party of its obligations under this Agreement if such breach of obligations has caused injury to the investor of the other contracting party, and if so, to fix the Monte compensation.

6. The arbitration awards shall be final and binding on the parties to the dispute. each Contracting Party undertakes to execute the decisions in accordance with its national legislation.

Article XII. Entry Into Force , Extension and Termination

1. This Agreement shall enter into force from the date on which both contracting parties have notified each other of the completion of their respective constitutional formalities required. permanecera in force for an initial period of ten years and shall be renewable, by tacit renewal, by períodes consecutive two-year.

Each Contracting Party may denounce this Agreement by a written notification, six months before the date of expiry.

2. In the event of a complaint, the provisions of articles I to XI of this Agreement shall continue to apply for a period of ten years for investments made before the denuncia.artículos I to XI of this Agreement shall continue to apply for a period of ten years for investments made before the complaint.

For the Kingdom of Spain,

Aurelio Perez Giralda,

Ambassador of Spain in Venezuela

For the Republic of Venezuela,

Miguel Angel bureili Rivas

Minister of Foreign Affairs