AGREEMENT FOR THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS BETWEEN THE KINGDOM OF SPAIN AND THE REPUBLIC OF NICARAGUA

Agreement on the reciprocal promotion and protection of investments between the Kingdom of Spain and the Republic of Nicaragua

The Kingdom of Spain and the Republic of Nicaragua, 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 stimulates initiatives in this field,

Have agreed as follows:

Article I. Definitions

For the purposes of this Agreement:

1. "investors" means:

a) Natural persons who, in the case of investors, Spanish, resident in Spain under Spanish law and in the case of investors of the Republic of Nicaragua, those possessing the nationality under the law of that Party.

b) Legal entities including companies, associations of companies, corporations and other organizations, which are constituted or encualquier case, duly organized under the law of that Contracting Party and having their headquarters in the territory of that same Contracting Party.

2. "investment" shall mean assets of every kind, such as property and rights of any kind, acquired in accordance with the laws of the host country to investment and in particular, though not exclusively, the following:

- Actions and other forms of participation in companies;

- rights derived from any contributions with the aim of creating economic value; explicitly included all those loans for this purpose, whether or not capitalized;

- movable and immovable property as well as other rights in rem, such as mortgages prende usufructs, and similar rights;

- any rights in the field of intellectual property, including express patents and trademarks, trade and licensing of manufacture, know-how and good-will ";

- Rights to undertake economic and commercial activities conferred by law or under contract, in particular those relating to prospecting, cultivate, extract or exploit natural resources.

3. The term "investment income" refers to the income derived from an investment in accordance with the terms and conditions of the investment. investment income as defined in the preceding paragraph. the definition contained in the preceding paragraph. It includes. expressly, profits: dividends and interest.

4. The term "territory" means the territory of each of the Contracting Parties.

Article II. Promotion and Admission

1. Each Contracting Party shall promote as far as possible investments made in its territory by investors of the other Contracting Party and shall admit such investments in accordance with its laws.

2. This Agreement shall apply to investments made after the Entry into Force of the Agreement. it shall apply to matters related to investments which have arisen after its Entry into Force, regardless of the date on which the investment was made

Article III. Protection

1. Each Contracting Party shall protect within its territory investments made in accordance with its legislation by investors of the other Contracting Party and shall not hinder unreasonable or discriminatory measures by the management, maintenance, use, enjoyment, extension and sucaso, sale or 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 whenever necessary, grant the required authorisations concerning the activities of consultants and experts appointed by investors of the other contracting party.

Article IV. Treatment

1. Each Contracting Party shall in its territory a fair and equitable treatment to investments by investors of the other contracting party.

2. This Sará treatment no less favourable than that granted by each contracting party to investments made in its territory by investors of any third country that enjoyment of most-favoured-nation treatment.

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 in ongoing or future:

- a free trade area,

- a customs union,

- a common market,

- The organization of Mutual Economic Assistance,
or under an Agreement signed prior to the date of signature of this Convention which provides provisions similar to those granted by that Contracting Party to the participants of that Organization.

4. The treatment accorded under this Article shall not extend to deductions, tax exemptions or other similar privileges granted by either Contracting Party to investors of third countries under a Double Taxation Avoidance Agreement or any other taxation agreement.

5. In addition to the provisions of paragraph 2 of this Article. In addition to the provisions of paragraph 2 of this Article, each Contracting Party shall apply, in accordance with its national law, the provisions of paragraph 3 of this Article. In addition to the provisions of paragraph 2 of this Article, each Contracting Party shall apply, in accordance with its national laws, to the investments of investors of the other Contracting Party a tax the investors of the other Contracting Party treatment no less favorable than that accorded to investors of the other Contracting Party. treatment no less favorable than that accorded to its own investors.

Article V. Expropriation and Nationalization

The expropriation or nationalization or any other similar measures that may be taken by the authorities of one Contracting Party against investments of investors of the other contracting party in its territory, it shall be applied only for reasons of public purpose or social interest, in accordance with the laws and in no case shall be discriminatory. the contracting party to take such measures shall be paid to the investor or its patient, without undue delay, adequate compensation which shall be effectively realisable and freely transferable.

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, riot or other similar circumstances, shall be accorded restitution, indemnification, compensation or other settlement, a treatment no less favourable than that which the latter Contracting Party accords to investors of any third State. any payments made under this article shall be made in a prompt, adequate, effective and freely transferable.

Article VII. Transfers

1. each Contracting Party shall guarantee to investors of the other contracting party, with regard to investments in its territory, the free transfer of the income of these and other payments related to investments and in particular, though not exclusively, the following:

- the investment income as defined in Article I;

- compensation under Article V;

- the compensation provided for in article VI;

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

- The amounts required for the repayment of loans and payment of their interests;

- Amounts necessary for the acquisition of raw or auxiliary semifabricados or finished products, or to replace capital assets or any other amounts necessary for the maintenance and development of the investment;

- salaries, wages and other remunerations received by the nationals of one Contracting Party who have obtained in the other Contracting Party the corresponding work permits in connection with an investment.
2. The Contracting Party receiving the investment shall provide the investor of the other Contracting Party or the company in which he participates with access to the foreign exchange market on a non-discriminatory basis for the purpose of acquiring the foreign exchange necessary to carry out the transfers covered by this Article.
3. Transfers shall be made in freely convertible currencies, once the investor has complied with the tax obligations established by the legislation in force in the Contracting Party receiving the investment.

4. The Contracting Parties undertake to provide the necessary precedents to effect such transfers without undue delay or restriction, in accordance with the practices of the international financial centers. In particular, no more than six months shall elapse from the date on which the investor has duly submitted the requests necessary to effect the transfer until such time as the transfer is actually effected. Therefore, each Contracting Party undertakes to complete the necessary formalities both for the purchase of the currency and for its actual transfer abroad before the aforementioned time limit.

5. The Contracting Parties shall accord to the transfers referred to in this Article treatment no less favorable than that accorded to transfers originating from investors of any third State.

Article VIII. More Favourable Terms

More favourable terms than those of this Agreement which Hayen 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

In the event that a Contracting Party has provided any financial guarantee on non-commercial risks in connection with an investment made by an investor of that Contracting Party in the territory of the other contracting party, the latter shall accept an application of the principle of subrogation to the first Contracting Party in the economic rights of inverson and not in the real rights, from the first time that the Contracting Party has made a payment under the guarantee granted.

The subrogation will make it possible to the first Contracting Party is direct beneficiaries of all payments of compensation to the investor might be initial creditor. in no case may be prodici subrogation in property rights, use, enjoyment or any other right derived from the ownership of investment without prior authorizations relevant under the Law on Foreign Investment in force of the Contracting Party where the investment was made.

Article X. Disputes of Interpretation of the Agreement between the Contracting Parties

1. Any dispute between the contracting parties concerning the interpretation or application of this Agreement shall be

settled as far as possible, by the Governments of the two contracting parties.

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 request the President of the International Court of Justice to make the appointment. where two arbitrators fail to agree on the appointment of the third arbitrator within the prescribed period, either Contracting Party may have recourse to 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 requested 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 any of the Parties contratantes.párrafo 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 requested 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 respect for the law, to the rules contained in this Agreement or in other agreements in force between the contracting parties, and on the universally recognized 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 it shall be final and binding on both contracting parties.

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

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

1. Any dispute concerning an investment which may arise between a Contracting Party and an investor of the other Contracting Party with respect to matters governed by this Agreement shall be notified in writing, incluvendo a detailed information by the investor to the recipient contracting consignment of 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 any of the Parties to the dispute: paragraph 1 shall be submitted at the choice of any of the Parties to the dispute.

- to the competent courts of the Contracting Party in whose territory the investment was made;

- The ad hoc arbitration tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law;

- The International Centre for Settlement of Investment Disputes 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;

- The Court of Arbitration of the Paris International Chamber of Commerce;

3. Arbitration shall be based on:
- the provisions of this Agreement:

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

The national law of the Contracting Party in whose territory the investment has been made, including the rules relating to conflicts of law.

- the generally accepted rules and principles of international law;

4. Arbitration awards shall be final and binding on the parties to the dispute. Each Contracting Party undertakes to enforce the awards in accordance with its national law.

Article XII. Entry Into Force , Extension and Termination

1. This Agreement shall enter into force on the day on which the contracting parties have notified each other that their respective constitutional formalities required for the Entry into Force of international agreements have been completed. it shall remain in force for an initial period of ten years and shall be renewable, by tacit renewal, for periods of two consecutive years.

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 this Agreement shall continue to apply for a period of ten years for investments made before the complaint.

For the Kingdom of Spain,

Javier gómez-navarro Navarrete

Minister for Trade and Tourism

For the Republic of Nicaragua

Ernesto Sanchez, Fair

Minister of Foreign Affairs