AGREEMENT BETWEEN THE REPUBLIC OF PERU AND THE GOVERNMENT OF THE REPUBLIC OF BOLIVIA ON THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of Peru and the Government of the Republic of Bolivia, hereinafter referred to as the Contracting Parties,

Desiring to intensify economic cooperation for mutual benefit of both countries;

In order to create favourable conditions for investments by nationals or companies of one Contracting Party in the territory of the other Contracting Party;

Recognizing that the promotion and protection of such an agreement can stimulate investments by private economic initiative and enhancing the well-being of the people;

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

(1) "investment" means every kind of asset defined in accordance with the laws and regulations of the Contracting Party in whose territory the investment was made in accordance with this Agreement; includes in particular, though not exclusively:

(a) Ownership of movable and immovable property and other property rights such as mortgages, liens and pledges;

(b) Shares or rights of participation in companies and other kinds of interests in companies or joint ventures;

(c) Rights to funds used to create an economic value or benefits under contract having an economic value, in accordance with the laws and regulations in force in the Contracting Party where the investment is made;

(d) Intellectual Property Rights, such as copyrights, patents, designs, utility models and industrial designs, trademarks, trade names, industrial and commercial secrets, processes and knowhow patented or not arising under the form of physical assets, documents, and technical instructions;

e) Concessions granted by the States of the Contracting Parties or its public entities for the exercise of economic activity, including concessions prospecting, exploration, and exploitation of natural resources.

(2) "proceeds" means the amounts obtained from an investment made in accordance with this Agreement, such as interests, profits, dividends, royalties, and other income.

(3) "company" means all legal entities, including companies, business associations, and other civil and legal personalities with or without having an economic activity within the scope of this Agreement.

(4) "national" refers with regard to either Contracting Party:

(a) Natural persons having the nationality of that Contracting Party in accordance with its laws;

(b) Companies constituted in accordance with the law of that Contracting Party or are controlled, directly or indirectly, by nationals of the same.

(5) "territory" means:

(a) With reference to the Republic of Bolivia, on the territory which Peru exercises sovereignty and jurisdiction, in accordance with its Constitution.

b) With reference to the Republic of Bolivia, the territory under the sovereignty and jurisdiction of Bolivia.

(6) "host state" means the State in whose territory the investment is made.

Article 2. Promotion and Protection of Investments

(1) Each Contracting Party shall promote within its territory investments by nationals of the other Contracting Party and shall admit them in accordance with its laws and regulations.

(2) Investments made by nationals of one Contracting Party in the territory of the Contracting Party in accordance with the laws and regulations of the latter, shall enjoy the full protection of this Agreement.

(3) The investments made in the territory of one of the Contracting Parties shall be recorded and registered in accordance with the laws of the host State.

Article 3. National Treatment and Most Favoured Nation Clause

(1) Each Contracting Party shall ensure fair and equitable treatment for investments by nationals of the other Contracting Party and shall not prevent, by arbitrary or discriminatory measures, the free administration, use, enjoyment, or disposition of investments by nationals of that Contracting Party.

(2) Each Contracting Party, specifically, to accord such investments treatment no less favorable than accorded to investments of its own nationals or to the investments of nationals of any third State, whichever is more favorable to the investments of nationals of the other contracting party.

(3) Such treatment shall not extend to privileges granted by one of the Contracting Parties to nationals of third States on account of their membership of a customs or economic union, a common market or free trade area or similar international agreements concluded with third States for mutual economic assistance or other forms of regional cooperation.

(4) The treatment accorded by the present article shall not extend to the benefits and advantages which either Contracting Parties grant to nationals of third States as a result of the conclusion of conventions or agreements to avoid double taxation or other tax arrangements.

(5) Nothing in this Agreement shall prevent a contracting party to its nationals reserving certain economic activities in accordance with its Constitution. furthermore, it shall take the steps required by reason of internal and external national security, public order, or morality, provided they are not discriminatory.

Article 4. Repatriation of Profits and Capital Investment

(1) Each Contracting Party shall guarantee to the nationals of the other Contracting Party the free transfer to the territory of the other Contracting Party or third States of payments connected with an investment, in particular:

(a) The capital of the investment and reinvestment is carried out in accordance with the laws and regulations of the host State.

(b) All profits.

(c) The repayment of the loans defined in paragraph (1) (c) of Article 1 of this Agreement, as well as the interest thereon.

(d) The proceeds of the total or partial sale or liquidation of the investment.

(e) The compensation referred to in article 5 of this Agreement.

(f) The compensation or reparation referred to in article 6 of this Agreement.

(2) The transfer shall be effected in a freely convertible currency, without any restriction or delay.

Article 5. Expropriation

(1) Investments by nationals of one of the Contracting Parties shall enjoy full protection and legal security on the territory of the other Contracting Party.

(2) Investments made in accordance with this Agreement by nationals of one of the Contracting Parties may not, in the

territory of the other Contracting Party, be expropriated, nationalised or subjected to other measures which, in their effects, are tantamount to expropriation or nationalisation, except for reasons of public need and utility or social interest declared to be to the laws of the other Contracting Party where the measure is taken and, in that case, shall be duly compensated.

(3) The compensation must correspond to the value of the expropriated or nationalized investment immediately prior to the date of the actual or imminent expropriation being made public, the nationalisation or equivalent measure. The compensation shall be paid without delay and shall accrue interest until the date of actual payment, at the usual bank rate and must be realizable and freely transferable to the territory of the other Contracting Party or third States.

(4) The legality of the expropriation, nationalisation or equivalent measure, the amount of compensation as well as any other related issue should be reviewable in legal proceedings ordinary according to the laws and regulations of the Contracting Party where the measure was carried out

Article 6. Compensation for Losses

The nationals of either Contracting Party who suffer losses of their investments due to war or another armed conflict, revolution, state of national emergency, a state of siege, insurrection or other similar events in the territory of the other Contracting Party, shall be treated by the latter no less favourably than its own nationals as regards restitution, indemnification, compensation or other relief. such payments shall be freely transferable to the territory of the former Contracting Party or of any third State.

Article 7. Most Favoured Nation Treatment

With respect to the matters governed by articles 5 and 6 of this Agreement, the nationals of a Party from the Contracting Parties shall enjoy in the territory of the other Contracting Party the most favoured nation treatment.

Article 8. Subrogation

If one contracting party or its authorized agent makes payment to its nationals under a guarantee given by an investment against non-commercial risks in the territory of the other contracting party, the latter, without prejudice to their rights under Article 12 correspond to the first Contracting Party shall recognise the subrogation in all the rights of nationals to the first Contracting Party or its authorized agent either by law or by a legal transaction.

Furthermore, the other Contracting Party shall recognize the case and scope of the first subrogation of the Contracting Party or its authorized agent in all these rights of the previous incumbent conferred in accordance with this agreement, without prejudice to the right of the other Contracting Party to deduct any tax or duty payable by the right holder. For the transfer of payments under the rights shall apply mutatis mutandis transferred to Article 4 of this Agreement.

Article 9. Implementation of the Agreement

This Agreement shall apply to investments by nationals of one Contracting Party in the territory of the other Contracting Party, after the entry into force of this Agreement, provided that they are registered or recorded in accordance with the laws of the host State.

It shall apply to matters arising after its entry into force related to investments made by nationals of one Contracting Party in accordance with the laws and regulations of the host State before the entry into force of the Agreement, provided that they are equally registered or recorded.

Article 10. The Most Favourable Treatment

(1) If the provisions of the law of either Contracting Party or as agreed by the Contracting Parties beyond as agreed in this Agreement is of a general or special rules under which must be accorded to investments of nationals of the other Contracting Party to a more favourable treatment than that provided for by the present Agreement, such rules shall prevail over this agreement, as is more favourable.

(2) Each Contracting Party shall perform any other commitments incurred with regard to the investments of nationals of the other contracting party in its territory.

Article 11. Settlement of Disputes between a Contracting Party and a National of the other Contracting Party

(1) Any dispute arising between a Contracting Party and a national of the other States in connection with investments within the meaning of this agreement should, if possible, be settled amicably between the parties to the dispute.

(2) If a dispute within the meaning of paragraph (1) cannot be settled within six months after the date in which a Party has promoted, shall be submitted at the request of one of them to the competent courts of the Contracting Party in whose territory the investment was conducted.

(3) The dispute may be submitted to an international arbitral tribunal in any of the following circumstances:

(a) At the request of one of the parties to the dispute, where there is no decision on the merits after six months from the start of the legal proceedings provided for in the paragraph (2) of this Article, or where such a decision exists but the dispute remains between the parties;

(b) Where both parties to the dispute have so agreed.

(4) In the cases provided for in paragraph (3) above, disputes between the parties within the meaning of this Article shall be submitted to

- International arbitration by the International Centre for Settlement of Investment Disputes (ICSID), established by the "Convention on the Settlement of Investment Disputes between States and Nationals of other States", signed in Washington on 18 March 1965, provided that both Contracting Parties are party to that Convention; or,

- To an ad hoc arbitration tribunal constituted under an international convention to which they are party both Contracting Parties.

(5) The arbitration award shall be binding, and each Contracting Party shall enforce it in accordance with its legislation.

Article 12. Disputes between the Contracting Parties

(1) Any dispute arising between the Contracting Parties concerning the interpretation or application of the present Agreement shall, if possible, be settled by the Governments of the two Contracting Parties, through diplomatic channels.

(2) If a dispute cannot be settled in this way within six months, the counted from the date in which one of the Contracting Parties to the dispute has promoted, be submitted to an arbitral tribunal at the request of one of the Contracting Parties.

(3) The Arbitral Tribunal shall be constituted on an ad hoc basis. Each Contracting Party shall appoint one member, and the two members shall agree to elect as their President a national of a third State who shall be appointed by the Governments of both Contracting Parties. The members shall be appointed within a period of two months, the President shall, within three months, after one of the Contracting Parties have informed the other that they wish to submit the dispute to an arbitral tribunal.

(4) If the time limits provided for in paragraph (3) are not complied with, and in the absence of any other arrangement, each Party The President of the International Court of Justice may be invited by the Contracting Party to conduct necessary appointments. If the President is a national of one of the Parties If the Vice-President is unable to attend or is prevented from attending for any other reason, he shall be responsible for appointments. If the Vice-President is also a national of one of the Contracting Parties, or if If a member of the Court is also prevented from attending, it is up to the member of the Court who immediately The appointments must be made by a member of the hierarchy who is not a national of one of the Contracting Parties.

(5) The arbitral tribunal shall take its decisions by majority vote. Its decisions shall be binding. Each Contracting Party shall bear the expenses incurred in the work of its arbitrator and the expenses of their representation in the arbitration proceedings. The expenses of the Chairman, as well as the other The costs shall be borne equally by the two Contracting Parties. The arbitral tribunal will determine its own procedure.

(6) None of the Contracting Parties shall offer diplomatic protection or avail itself of an international claim for a dispute between one of its nationals and the other Contracting Party submitted to a competent court of the receiving State or to a competent international court of arbitration, as provided for in Article 11 of this Convention, unless the other Contracting Party does not comply with or comply with the judgment or award.

Article 13. In Case of Suspension of Diplomatic or Consular Relations

The provisions of this Agreement shall continue to be fully applicable even in cases provided for in article 63 of the Vienna

Convention on the Law of Treaties of 23 May 1969.

Article 14. Entry Into Force , Duration and Termination of the Agreement

(1) This Convention shall enter into force thirty days after the date on which the Parties communicate by a diplomatic note that they have complied with the constitutional requirements and procedures interns. Its validity will be for ten years and may be tacitly extended for the same period, unless that one of the Contracting Parties denounces it through diplomatic channels, with a notice of twelve months.

(2) For investments made before the date of termination of this Agreement, this Agreement shall continue governing for the fifteen years following that date.

Signed in the city of Ilo, on the thirtieth day of July of nineteen hundred and ninety-three years, in two copies in Spanish, both texts being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF PERU

OSCAR DE LA PUENTE RAYGADA

PRESIDENT OF THE COUNCIL OF MINISTERS AND MINISTER FOR FOREIGN AFFAIRS

FOR THE GOVERNMENT OF THE REPUBLIC OF BOLIVIA

ROBERTO PEÑA RODRIGUEZ

MINISTER FOR FOREIGN AFFAIRS AND WORSHIP