

**COOPERATION AND FACILITATION INVESTMENT AGREEMENT  
BETWEEN THE FEDERATIVE REPUBLIC OF BRAZIL AND**

The Federative Republic of Brazil

and

(hereinafter designated as the “Parties” or individually as “Party”),

**PREAMBLE**

Wishing to strengthen and to enhance the bonds of friendship and the spirit of continuous cooperation between the Parties;

**Seeking** to create and maintain favourable conditions for the investments of investors of a Party in the territory of the other Party;

**Seeking** to stimulate, streamline and support bilateral investments, thus opening new integration opportunities between the Parties;

**Recognizing** the essential role of investment in promoting sustainable development;

**Considering** that the establishment of a strategic partnership between the Parties in the area of investment will bring wide-ranging and mutual benefits;

**Recognizing** the importance of fostering a transparent and friendly environment for investments by investors of the Parties;

**Reassuring** their regulatory autonomy and policy space;

**Wishing** to encourage and strengthen contacts between the private sectors and the Governments of the two countries; and

**Seeking** to create a mechanism for technical dialogue and foster government initiatives that may contribute to a significant increase in mutual investment;

Agree, in good faith, to the following **Cooperation and Facilitation Investment Agreement**, hereinafter referred to as “Agreement”, as follows:

## **PART I – Scope of the Agreement and Definitions**

### **Article 1 Objective**

1. The objective of this Agreement is to promote cooperation between the Parties in order to facilitate and encourage mutual investment, through the establishment of a an institutional framework for the management of an agenda for further investment cooperation and facilitation, as well as through mechanisms for risk mitigation and prevention of disputes, among other instruments mutually agreed on by the Parties.

### **Article 2 Scope and Coverage**

1. This Agreement shall apply to all investments made before or after its entry into force.

2. This Agreement shall not limit the rights and benefits which an investor of a Party enjoys under national or international law in the territory of the other Party.

3. For greater certainty, the Parties reaffirm that this Agreement shall apply without prejudice to the rights and obligations derived from the Agreements of the World Trade Organization.

4. This agreement shall not prevent the adoption and implementation of new legal requirements or restrictions to investors and their investments, as long as they are consistent with this Agreement.

### **Article 3 Definitions**

1. For the purpose of this Agreement:

**1.1 Enterprise** means: any entity constituted or organized under applicable law, whether or not for profit, whether privately owned or State--owned, including any corporation, trust, partnership, sole proprietorship, joint venture and entities without legal personality;

**1.2 Host State** means the Party where the investment is made.

**1.3 Investment** means a direct investment of an investor of one Party, established or acquired in accordance with the laws and regulations of the other Party, that s, directly or indirectly, allows the investor to exert control or significant degree of influence over the management of the production of goods or provision of services in the territory of the other Party, including but not limited to:

- a) an enterprise;
- b) shares, stocks, participations and other equity types in an enterprise;
- c) movable or immovable property and other property rights such as mortgages, liens, pledges, encumbrances or similar rights and obligations;

- d) concession, license or authorization granted by the Host State to the investor of the other Party;
- e) loans and debt instruments to a company;
- f) intellectual property rights as defined or referenced to in the Trade-Related Aspects of Intellectual Property Rights of the World Trade Organization (TRIPS)

For the purposes of this Agreement and for greater certainty, "Investment" does not include:

- i) an order or judgment issued as a result of a lawsuit or an administrative process;
- ii) debt securities issued by a Party or loans granted from a Party to the other Party, bonds, debentures, loans or other debt instruments of a State-owned enterprise of a Party that is considered to be public debt under the legislation of that Party;
- ii) portfolio investments, i.e., those that do not allow the investor to exert a significant degree of influence in the management of the company; and
- iii) claims to money that arise solely from commercial contracts for the sale of goods or services by an investor in the territory of a Party to a national or an enterprise in the territory of another Party, or the extension of credit in connection with a commercial transaction, or any other claims to money that do not involve the kind of interests set out in sub-paragraphs (a)-(e) above.

**1.4 Investor** means a national, permanent resident or enterprise of a Party that has made an investment in the territory of the other Party;

**1.5 Income** means the values obtained by an investment, including profits, interests, capital gains, dividends or "royalties".

**1.6 Measure** means any measure adopted by a Party, whether in the form of law, regulation, rule, procedure, decision, administrative ruling, or any other form.

**1.7 National** means a natural person that has the nationality of a Party, according to its laws and regulations.

**1.8 Territory** means the territory, including its land and aerial spaces, the exclusive economic zone, territorial sea, seabed and subsoil within which the Party exercises its sovereign rights or jurisdiction, in accordance with international law and its internal legislation.

## **PART II – Regulatory Measures and Risk Mitigation**

## **Article 4**

### **Admission and treatment**

1. Each Party shall admit and encourage investments of investors of the other Party, according to their respective laws and regulations.
2. Each Party shall grant to investments and investors of the other Party treatment according to the due process of law.
3. In line with the principles of this Agreement, each Party shall ensure that all measures that affect investment are administered in a reasonable, objective and impartial manner, in accordance with their respective laws and regulations.

## **Article 5**

### **National Treatment**

1. Without prejudice to the exceptions in force under its legislation on the date of entry into force of this Agreement, each Party shall accord to investors of another Party treatment no less favourable than that it accords, in like circumstances, to its own investors with respect to the expansion, management, conduct, operation, and sale or other disposition of investments in its territory.
2. Without prejudice to the exceptions in force under its legislation on the date of entry into force of this Agreement, each Party shall accord to investments of investors of the other Party treatment no less favourable than that it accords, in like circumstances, to investments in its territory of its own investors with respect to the expansion, management, conduct, operation, and sale or other disposition of investments.
3. For greater certainty, whether treatment is accorded in 'like circumstances' depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public interest objectives.
4. For greater certainty, this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the investor or investments.

## **Article 6**

### **Most-Favoured-Nation Treatment**

1. Each Party shall accord to investors of another Party treatment no less favourable than that it accords, in like circumstances, to investors of any non-Party with respect to the expansion, management, conduct, operation, and sale or other disposition of investments in its territory.
2. Each Party shall accord to investments of investors of the other Party treatment no less favourable than that it accords, in like circumstances, to investments in its territory of investors of any non-Party with respect to the expansion, management, conduct, operation, and sale or other disposition of investments.

3. This Article shall not be construed to require a Party to grant to an investor of another Party or their investments the benefit of any treatment, preference or privilege arising from:

(i) provisions relating to investment dispute settlement contained in an investment agreement or an investment chapter of a commercial agreement; or

(ii) any agreement for regional economic integration, free trade area, customs union or common market, of which a Party is a member .

4. For greater certainty, whether treatment is accorded in ‘like circumstances’ depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives.

## **Article 7 Expropriation**

1. Each Party shall not directly nationalize or expropriate investments of investors of the other Party, except:

- a) for a public purpose or necessity or when justified as social interest;
- b) in a non-discriminatory manner;
- c) on payment of effective compensation, according to paragraphs 2 to 4; and
- d) in accordance with due process of law.

2. The compensation shall:

- a) Be paid without undue delay;
- b) Be equivalent to the fair market value of the expropriated investment, immediately before the expropriating measure has taken place (“expropriation date”);
- c) Not reflect any change in the market value due to the knowledge of the intention to expropriate, before the expropriation date; and
- d) Be completely payable and transferable, according to Article 9.

3. The compensation to be paid shall not be inferior to the fair market value on the expropriation date, plus interests at a rate determined according to market criteria accrued since the expropriation date until the date of payment, according to the legislation of the Host State.

4. The Parties shall cooperate to improve the mutual knowledge of their respective national legislations regarding investment expropriation.

5. For greater certainty, this article only provides for direct expropriation, where an investment is nationalized or otherwise directly expropriated through formal transfer of title or ownership rights.

## **Article 8 Compensation for Losses**

1. The investors of a Party whose investments in the territory of the other Party suffer losses due to war or other armed conflict, revolution, state of emergency, insurrection, riot or any other similar events, shall enjoy, with regard to restitution, indemnity or other form of, compensation, the same treatment as the latter Party accords to its own investors or the treatment accorded to investors of a third party, whichever is more favourable to the affected investor.

2. Each Party shall provide the investor restitution, compensation, or both, as appropriate, in accordance with Article 6 of this Agreement, in the event that investments suffer losses in its territory in any situation referred to in paragraph 1 resulting from:

- (a) requisitioning of its investment or part thereof by the forces or authorities of the latter Party; or
- (b) destruction of its investment or any part thereof by the forces or authorities of the latter Party.

## **Article 9 Transparency**

1. Each Party shall ensure that its laws, regulations, procedures and general administrative resolutions related to any matter covered by this Agreement, in particular regarding qualification, licensing and certification, are published without delay and, when possible, in electronic format, as to allow interested persons of the other Party to be aware of such information.

2. Each Party shall endeavour to allow reasonable opportunity to those stakeholders interested in expressing their opinions on the proposed measures.

3. Whenever possible, each Party shall publicize this Agreement to their respective public and private financial agents, responsible for the technical evaluation of risks and the approval of loans, credits, guarantees and related insurances for investment in the territory of the other Party.

## **Article 10 Transfers**

1. Each Party shall allow that the transfer of funds related to an investment be made freely and without undue delay, to and from their territory. Such transfers include:

- (a) the initial capital contribution or any addition thereof in relation to the maintenance or expansion of such investment;
- (b) income directly related to the investment;

- (c) the proceeds of sale or total or partial liquidation of the investment;
- (d) the repayments of any loan, including interests thereon, relating directly to the investment;
- (e) the amount of a compensation.

2. Without prejudice to paragraph 1, a Party may, in an equitable and non-discriminatory manner and in good faith, prevent a transfer if such transfer is prevented under its laws relating to:

- (a) bankruptcy, insolvency or the protection of the rights of creditors;
- (b) criminal infractions;
- (c) financial reports or maintenance of transfers' registers when necessary to cooperate with law enforcement or with financial regulators; or
- (d) the guarantee for the enforcement of decisions in judicial or administrative proceedings.

3.. Nothing in this Agreement shall be construed as to prevent a Party from adopting or maintaining temporary restrictive measures in respect of payments or transfers for current account transactions in the event of serious difficulties in the balance of payments and external financial difficulties or threat thereof.

4. Nothing in this Agreement shall be construed as to prevent a Party from adopting or maintaining temporary restrictive measures in respect of payments or transfers related to capital movements:

- (a) in the case of serious difficulties in the balance of payments or external financial difficulties or threat thereof; or
- (b) where, in exceptional circumstances, payments or transfers from capital movements generate or threaten to generate serious difficulties for macroeconomic management.

5. The adoption of temporary restrictive measures to transfers if there are serious difficulties in the balance of payments in the cases described in paragraphs 1 and 2, must be non-discriminatory and in accordance with the Articles of the Agreement of the International Monetary Fund.

## **Article 11**

### **Tax Measures**

1. No provision of this Agreement shall be interpreted as an obligation of one Party to give to an investor from the other Party, concerning his or her investments, the benefit of any treatment, preference or privilege arising out of any agreement to avoid double taxation, current or future, of which a Party to this Agreement is a party or becomes a party.

2. No provision of this Agreement shall be interpreted in a manner that prevents the adoption or implementation of any measure aimed at ensuring the equitable or effective imposition or collection of taxes, according to the Parties' respective laws and regulations, so long as such a measure is not applied as to constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction.

## **Article 12 Prudential Measures**

1. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining prudential measures, such as:

- (a) the protection of investors, depositors, financial market participants, policy-holders, policy-claimants, or persons to whom a fiduciary duty is owed by a financial institution;
- (b) the maintenance of the safety, soundness, integrity or financial responsibility of financial institutions; and
- (c) ensuring the integrity and stability of a Party's financial system.

2. Where such measures do not conform with the provisions of this Agreement, they shall not be used as a means of circumventing the commitments or obligations of the Party under this Agreement.

## **Article 13 Security Exceptions**

1. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining measures aimed at preserving its national security or public order, or to apply the provisions of their criminal laws or comply with its obligations regarding the maintenance of international peace and security in accordance with the provisions of the United Nations Charter.

2. Measures adopted by a Party under paragraph 1 of this Article or the decision based on national security laws or public order that at any time prohibit or restrict the realization of an investment in its territory by an investor of another Party shall not be subject to the dispute settlement mechanism under this Agreement.

## **Article 14 Corporate Social Responsibility**

1. Investors and their investment shall strive to achieve the highest possible level of contribution to the sustainable development of the Host State and the local community, through the adoption of a high degree of socially responsible practices, based on the voluntary principles and standards set out in this Article.

2. The investors and their investment shall endeavour to comply with the following voluntary principles and standards for a responsible business conduct and consistent with the laws adopted by the Host State receiving the investment:

- a) Contribute to the economic, social and environmental progress, aiming at achieving sustainable development;
- b) Respect the internationally recognized human rights of those involved in the companies' activities;
- c) Encourage local capacity building through close cooperation with the local community;
- d) Encourage the creation of human capital, especially by creating employment opportunities and offering professional training to workers to;



- e) Refrain from seeking or accepting exemptions that are not established in the legal or regulatory framework relating to human rights, environment, health, security, work, tax system, financial incentives, or other issues;
- f) Support and advocate for good corporate governance principles, and develop and apply good practices of corporate governance;
- g) Develop and implement effective self-regulatory practices and management systems that foster a relationship of mutual trust between the companies and the societies in which its operations are conducted;
- h) Promote the knowledge of and the adherence to, by workers, the corporate policy, through appropriate dissemination of this policy, including programs for professional training;
- i) Refrain from discriminatory or disciplinary action against employees who submit grave reports to the board or, whenever appropriate, to the competent public authorities, about practices that violate the law or corporate policy;
- j) Encourage, whenever possible, business associates, including service providers and outsources, to apply the principles of business conduct consistent with the principles provided for in this Article; and
- k) Refrain from any undue interference in local political activities.

#### **Article 15**

##### **Investment Measures and Combating Corruption and Illegality**

1. Each Party shall adopt measures and make efforts to prevent and fight corruption, money laundering and terrorism financing with regard to matters covered by this Agreement, in accordance with its laws and regulations.
2. Nothing in this Agreement shall require any Party to protect investments made with capital or assets of illicit origin or investments in the establishment or operation of which illegal acts have been demonstrated to occur and for which national legislation provides asset forfeiture.

#### **Article 16**

##### **Provisions on Investment and Environment, Labor Affairs and Health**

1. Nothing in this Agreement shall be construed to prevent a Party from adopting, maintaining or enforcing any measure it deems appropriate to ensure that investment activity in its territory is undertaken in a manner according to labor, environmental and health legislations of that Party, provided that this measure is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction.
2. The Parties recognize that it is inappropriate to encourage investment by lowering the standards of their labor and environmental legislation or measures of health. Therefore, each Party guarantees it shall not amend or repeal, nor offer the amendment or repeal of such legislation to encourage the establishment, maintenance or expansion of an investment in its

territory, to the extent that such amendment or repeal involves decreasing their labor, environmental or health standards. If a Party considers that another Party has offered such an encouragement, the Parties will address the issue through consultations.

### **PART III- Institutional Governance and Dispute Prevention**

#### **Article 17**

##### **Joint Committee for the Administration of the Agreement**

1. For the purpose of this Agreement, the Parties hereby establish a Joint Committee for the administration of this Agreement (hereinafter referred as “Joint Committee”).
2. This Joint Committee shall be composed of government representatives of both Parties designated by their respective Governments.
3. The Joint Committee shall meet at such times, in such places and through such means as the Parties may agree. Meetings shall be held at least once a year, with alternating chairmanships between the Parties.
4. The Joint Committee shall have the following functions and responsibilities:
  - a) Supervise the implementation and execution of this Agreement;
  - b) Discuss and divulge opportunities for the expansion of mutual investment;
  - c) Coordinate the implementation of the mutually agreed cooperation and facilitation agendas;
  - d) Consult with the private sector and civil society, when applicable, on their views on specific issues related to the work of the Joint Committee;
  - e) Seek to resolve any issues or disputes concerning investments of investors of a Party in an amicable manner; and
  - f) Supplement the rules for arbitral dispute settlement between the Parties.
5. The Parties may establish *ad hoc* working groups, which shall meet jointly or separately from the Joint Committee.
6. The private sector may be invited to participate in the *ad hoc* working groups, whenever authorized by the Joint Committee.
7. The Joint Committee shall establish its own rules of procedure.

#### **Article 18**

##### **Focal Points or “Ombudsmen”**

1. Each Party shall designate a National Focal Point, or “Ombudsman”, which shall have as its main responsibility the support for investor from the other Party in its territory.

2. In Brazil, the “*Ombudsman*”/National Focal Point shall be within the Chamber of Foreign Trade – CAMEX<sup>1</sup>.
3. In, the “*Ombudsman*”/National Focal Point shall be .
4. The National Focal Point, among other responsibilities, shall:
  - a) Endeavour to follow the recommendations of the Joint Committee and interact with the National Focal Point of the other Party, in accordance with this Agreement;
  - b) Follow up on requests and enquiries of the other Party or of investors of the other Party with the competent authorities and inform the stakeholders on the results of its actions;
  - c) to assess, in consultation with relevant government authorities, suggestions and complaints received from the other Party or investors of the other Party and recommend, as appropriate, actions to improve the investment environment;
  - d) seek to prevent differences in investment matters, in collaboration with government authorities and relevant private entities;
  - e) Provide timely and useful information on regulatory issues on general investment or on specific projects; and
  - f) Report its activities and actions to the Joint Committee, when appropriate.
5. Each Party shall determine time limits for the implementation of each of its functions and responsibilities, which will be communicated to the other Party.
6. Each Party shall designate a single agency or authority as its National Focal Point, which shall give prompt replies to notifications and requests by the Government and investors from the other Party.

## **Article 19**

### **Exchange of Information between Parties**

1. The Parties shall exchange information, whenever possible and relevant to reciprocal investments, concerning business opportunities, procedures, and requirements for investment, particularly through the Joint Committee and its National Focal Points.
2. For this purpose, the Party shall provide, when requested, in a timely fashion and with respect for the level of protection granted, information related, in particular, to the following items:
  - a) Regulatory conditions for investment;
  - b) Governmental programs and possible related incentives;

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<sup>1</sup> The Chamber of Foreign Trade (CAMEX) is part of the Government Council of the Presidency of the Federative Republic of Brazil. Its main body is the Council of Ministers, which is an interministerial body.

- c) Public policies and legal frameworks that may affect investment;
- d) Legal framework for investment, including legislation on the establishment of companies and joint ventures;
- e) Related international treaties;
- f) Customs procedures and tax regimes;
- g) Statistical information on the market for goods and services;
- h) Available infrastructure and public services;
- i) Governmental procurement and public concessions;
- j) Social and labour requirements;
- k) Immigration legislation;
- l) Currency exchange legislation;
- m) Information on legislation of specific economic sectors or segments previously identified by the Parties; and
- n) Regional projects and agreements related to on investment.

3. The Parties shall also exchange information on Public-Private Partnerships (PPPs), especially through greater transparency and quick access to the information on the legislation.

## **Article 20 Treatment of Protected Information**

1. The Parties shall respect the level of protection of information provided by the submitting Party, according to the respective national legislation on the matter.

2. None of the provisions of the Agreement shall be construed to require any Party to disclose protected information, the disclosure of which would jeopardize law enforcement or otherwise be contrary to the public interest or would violate the privacy or harm legitimate business interests. For the purposes of this paragraph, protected information includes confidential business information or information considered privileged or protected from disclosure under the applicable laws of a Party.

## **Article 21 Interaction with the Private Sector**

Recognizing the key role played by the private sector, the Parties shall publicize, among the relevant business sectors, general information on investment, regulatory frameworks and business opportunities in the territory of the other Party.

**Article 22**  
**Cooperation between Agencies Responsible for Investment Promotion**

The Parties shall promote cooperation between their investment promotion agencies in order to facilitate investment in the territory of the other Party.

**Article 23**  
**Disputes Prevention**

1. The National Focal Points, or “Ombudsmen”, shall act in coordination with each other and with the Joint Committee in order to prevent, manage and resolve any disputes between the Parties.

2. Before initiating an arbitration procedure, in accordance with Article 24 of this Agreement, any dispute between the Parties shall be the object of consultations and negotiations between the Parties and be previously examined by the Joint Committee.

3. A Party may submit a specific question and call a meeting of the Joint Committee according to the following rules:

- a) to initiate the procedure, the interested Party must submit a written request to the other Party, specifying the name of the affected investors, the specific measure in question, and the findings of fact and law underlying the request. The Joint Committee shall meet within sixty (60) days from the date of the request;
- b) The Joint Committee shall have 60 days, extendable by mutual agreement by 60 additional days, upon justification, to evaluate the relevant information about the presented case and to submit a report. The report shall include:
  - i) Identification of the Party;
  - ii) Identification of the affected investors, as presented by the Parties;
  - iii) Description of the measure under consultation; and
  - iv) Conclusions of the consultations between the Parties;.
- c) In order to facilitate the search for a solution between the Parties, whenever possible, the following persons shall participate in the bilateral meeting:
  - i) Representatives of the affected investors;
  - ii) Representatives of the governmental or non-governmental entities involved in the measure or situation under consultation.
- d) The procedure for dialogue and bilateral consultations may be concluded by any Party, after the sixty (60) days referred to in subparagraph b). The Joint Committee shall present its report in the subsequent meeting of the Joint Committee, which shall be held no later than fifteen (15) days after the date of

the submission of the request of a Party to conclude the procedure for dialogue and bilateral consultations.

- e) The Joint Committee shall, whenever possible, call for special meetings to review matters that have been submitted.
- f) In the event that a Party does not attend the meeting of the Joint Committee described in subparagraph (d) of this article, the dispute may be submitted to arbitration by the other Party in accordance with Article 24 of the Agreement.

4. The meeting of the Joint Committee and all documentation, as well as steps taken in the context of the mechanism established in this Article, shall remain confidential, except for reports submitted by the Joint Committee.

## **Article 24**

### **Settlement of Disputes between the Parties**

1. Once the procedure under paragraph 3 of Article 23 has been exhausted and the dispute has not been resolved, either Party may submit the dispute to an ad hoc Arbitral Tribunal, in accordance with the provisions of this Article. Alternatively, the Parties may choose, by mutual agreement, to submit the dispute to a permanent arbitration institution for settlement of investment disputes. Unless the Parties decide otherwise, such institution shall apply the provisions of this Section.

2. The purpose of the arbitration is to determine the conformity with this Agreement of a measure that a Party claims to be not in conformity with the Agreement.

3. The following may not be subject to arbitration: Article 13 - Corporate Social Responsibility; Paragraph 1 of Article 14 – Investment Measures and Combating Corruption and Illegality; and paragraph 2 of Article 15 - Provisions on Investment and Environment, Labor Affairs and Health.

4. This Article shall not apply to any dispute concerning any facts which have occurred, nor any measures which have been adopted before the entry into force of this Agreement.

5. This Article shall not apply to any dispute if more than five (5) years have elapsed since the date on which the Party knew or should have known of the facts giving rise to the dispute.

6. The Arbitral Tribunal shall consist of three arbitrators. Each Party shall appoint, within three (3) months after receiving the "notice of arbitration", a member of the Arbitral Tribunal. Within three (3) months of the appointment of the second arbitrator, the two members, shall appoint a national of a third State with which both Parties maintain diplomatic relations, who, upon approval by both Parties, shall be appointed chairperson of the Arbitral Tribunal. The appointment of the Chairperson must be approved by both Parties within one (1) month from the date of his/her nomination.

7. If, within the periods specified in paragraph 6 of this Article, the necessary appointments are not concluded, either Party may invite the Secretary General of the International Court of Justice to make the necessary appointments. If the Secretary General of the International Court of Justice

is a national of one Party or is prevented from fulfilling said function, the member of the International Court of Justice who has the most seniority who is not a national of a Party will be invited to make the necessary appointments.

8. Arbitrators must:

(a) have the necessary experience or expertise in Public International Law, international investment rules or international trade, or the resolution of disputes arising in relation to international investment agreements;

(b) be independent of and not be affiliated, directly or indirectly, with any of the Parties or with the other arbitrators or potential witnesses nor take instructions from the Parties; and

(c) comply with the "Rules of conduct for the understanding on rules and procedures governing the settlement of disputes " of the World Trade Organization (WTO / DSB / RC / 1, dated December 11 1996), as applicable to the dispute, or any other standard of conduct established by the Joint Committee.

9. The "Notice of Arbitration" and other documents relating to the resolution of the dispute shall be presented at the location designated by each Party in Annex II (Delivery of Documents of a Party) or any other location that may be informed by the Parties.

10. The Arbitral Tribunal shall determine its own procedure in accordance with this Article or, alternatively, the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL). The Arbitral Tribunal will render its decision by majority vote and decide on the basis of the provisions of this Agreement and the applicable principles and rules of international law as recognized by both Parties. Unless otherwise agreed, the decision of the Arbitral Tribunal shall be rendered within six (6) months following the appointment of the Chairperson in accordance with paragraphs 6 and 7 of this article.

11. The decision of the Arbitral Tribunal shall be final and binding to the Parties, who shall comply with it without delay.

12. The Joint Committee shall approve the general rule for determining the arbitrators' fees, taking into account the practices of relevant international organizations. The Parties shall bear the expenses of the arbitrators as well as other costs of the proceedings equally, unless otherwise agreed.

13. Notwithstanding paragraph 2 of this Article, the Parties may, through a specific arbitration agreement, request the arbitrators to examine the existence of damages caused by the measure in question under the obligations of this Agreement and to establish compensation for such damages through an arbitration award. In this case, in addition to the provisions of the preceding paragraphs of this Article, the following shall be observed:

(a) The arbitration agreement to examine the existence of damages shall be taken as "notice of arbitration" within the meaning of paragraph 6;

(b) This paragraph shall not be applied to a dispute concerning a particular investor which has been previously resolved and where protection of res judicata applies. If a investor had submitted claims regarding the measure at issue in the Joint Committee to local courts or an arbitration tribunal of the Host State, the arbitration to examine damages can only be initiated after the withdrawal of such claims by

the investor in local courts or an arbitration tribunal of the Host State. If after the establishment of the arbitration, the existence of claims in local courts or arbitral tribunals over the contested measure is made known to the arbitrators or the Parties, the arbitration will be suspended.

(c) If the arbitration award provides monetary compensation, the Party receiving such compensation shall transfer to the holders of the rights of the investment in question, after deducting the costs of the dispute in accordance with the internal procedures of each Party. The Party to whom restitution was granted may request the Arbitral Tribunal to order the transfer of the compensation directly to the holders of rights of the affected investment and the payment of costs to whoever has assumed them.

## **PART IV - Agenda for Further Investment Cooperation and Facilitation**

### **Article 25**

#### **Agenda for Further Investment Cooperation and Facilitation**

1. The Joint Committee shall develop and discuss an Agenda for Further Cooperation and Facilitation on relevant topics for the promotion and enhancement of bilateral investment. The topics that shall be initially addressed and its objectives are listed in **Annex I – “Agenda for Further Investment Cooperation and Facilitation”**.
2. The agendas shall be discussed between the competent government authorities of both Parties. The Joint Committee shall invite, when applicable, additional competent government officials for both parties in the discussions of the agenda.
3. The results of such negotiations shall constitute additional protocols to this Agreement or specific legal instruments.
4. The Joint Committee shall coordinate schedules of the discussions for further investment cooperation and facilitation and the negotiation of specific commitments.
5. The Parties shall submit to the Joint Committee the names of government bodies and its official representatives involved in these negotiations.

## **PART V – General and Final Provisions**

### **Article 26**

#### **General Amendments and Final Provisions**

1. Neither the Joint Committee nor the Focal Points or *Ombudsmen* shall replace or impair, in any way, any other agreement or the diplomatic channels existing between the Parties.
2. Without prejudice to its regular meetings, after 10 (ten) years of entering into force of this Agreement, the Joint Committee shall undertake a general review of its implementation and make further recommendations, if necessary.



3. This Agreement shall enter into force 90 (ninety) days after the date of the receipt of the second diplomatic note indicating that all necessary internal procedures with regard to the conclusion and the entering into force of international agreements have been completed by both Parties.

4. At any time, either of the Parties may terminate this Agreement by providing written notice of termination to the other Party. The termination shall take effect on a date the Parties agree on or, if the Parties are unable to reach an agreement, 365 (three hundred and sixty-five) days after the date on which the termination notice is delivered

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

DONE at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_ in duplicate in the English and Portuguese languages, both texts being equally authentic.

**FOR THE FEDERATIVE REPUBLIC OF  
BRAZIL**

**FOR**

\_\_\_\_\_

\_\_\_\_\_

## **ANNEX I**

### **AGENDA FOR FURTHER INVESTMENT COOPERATION AND FACILITATION**

The agenda listed below represents an initial effort to improve investment cooperation and facilitation between the Parties and may be expanded and modified at any time by the Joint Committee.

#### **a. Payments and transfers**

i. The cooperation between the financial authorities shall aim at facilitating capital and currency remittances between the Parties.

#### **b. Visas**

i. Each Party shall seek, whenever possible and convenient, to facilitate the free movement of managers, executives and skilled employees of economic agents, entities, businesses and investors of the other Party.

ii. Respecting national legislation, immigration and labour authorities of each Party shall seek a common understanding in order to reduce time, requirements and costs to grant appropriate visas to investors of the other Party.

iii. The Parties will negotiate a mutually acceptable agreement to facilitate visas for investors with a view to extend its duration and stay.

#### **c. Technical and environmental regulations**

i. Subject to their national legislation, the Parties shall establish expeditious, transparent and agile procedures for the issuing of documents, licenses and certificates related to the prompt establishment and maintenance of the investment of the other Party.

ii. Any query from the Parties, or from their economic agents and investors concerning commercial registration, technical requirements and environmental standards shall receive diligent and timely treatment from the other Party.

#### **d. Cooperation on Regulation and Institutional Exchange**

i. The Parties shall promote institutional cooperation for the exchange of experiences on the development and management of regulatory frameworks.

ii. The Parties hereby undertake to promote technological, scientific and cultural cooperation through the implementation of actions, programs and projects for the exchange of knowledge and experience, in accordance with their mutual interests and development strategies.

- iii. The Parties agree that the access and the eventual technology transfer shall be carried out, whenever possible, and be aimed at contributing with effective trade of goods, services and related investment.
- iv. The Parties shall undertake to promote, foster, coordinate and implement cooperation in professional qualification through greater interaction between relevant national institutions.
- v. Fora for cooperation and exchange of experiences on solidarity economy shall be created, evaluating fostering mechanisms for cooperatives, family farms and other solidary economic enterprises related to current and future investment.
- vi. The Parties shall also promote institutional cooperation for greater integration of logistics and transports in order to open new air routes and increase, whenever possible and appropriate, their connections and maritime merchant fleets.
- vii. The Joint Committee may identify other areas of mutual interest for cooperation in sectorial legislation and institutional exchange.