

**AGREEMENT
BETWEEN
THE GOVERNMENT OF THE ORIENTAL REPUBLIC OF URUGUAY
AND
THE GOVERNMENT OF CANADA
FOR THE PROMOTION AND PROTECTION OF INVESTMENTS**

The Government of the Oriental Republic of Uruguay and the Government of Canada, hereinafter referred to as the "Contracting Parties",

Recognizing that the promotion and the protection of investments of investors of one Contracting Party in the territory of the other Contracting Party will be conducive to the stimulation of business initiative and to the development of economic cooperation between them,

Have agreed as follows:

ARTICLE I

Definitions

For the purpose of this Agreement:

- a) the term "investment" means any kind of asset held or invested either directly or indirectly by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the latter's laws and, in particular, though not exclusively, includes:
- (i) movable and immovable property as well as any other rights in rem in respect of every kind of asset;
 - (ii) shares, bonds and debentures or any other form of participation in a company, business enterprise or joint venture;
 - (iii) money, claims to money, and claims to performance having an economic value;
 - (iv) intellectual property rights, including copyrights, patents and trademarks as well as trade names, industrial designs, good will, trade secrets and know-how;
 - (v) rights, conferred by law or under contract, to undertake any economic and commercial activity, including any rights to search for, cultivate, extract or exploit natural resources.

Any change in the form of an investment does not affect its character as an investment.

- b) the term "investor" means:

- (i) any natural person being a national or possessing the citizenship of a Contracting Party in accordance with its laws; or
- (ii) any juridical person, including a corporation, partnership, trust, joint venture, organization, association or enterprise incorporated or duly constituted in accordance with applicable laws of that Contracting Party,

who makes the investment, however the term shall not include natural persons who are the nationals or citizens of both contracting parties;

- c) the term "returns" means all amounts yielded by an investment and in particular, though not exclusively, includes profits, interest, capital gains, dividends, royalties, fees or other current income;
- d) the term "territory" means:
 - (i) in respect of Canada, the territory of Canada, as well as those maritime areas, including the seabed and subsoil adjacent to the outer limit of the territorial sea, over which Canada exercises, in accordance with international law, sovereign rights for the purpose of exploration and exploitation of the natural resources of such areas;

- (ii) in respect of Uruguay, the territory of Uruguay, as well as those maritime areas, including the seabed and subsoil adjacent to the outer limit of the territorial sea, over which Uruguay exercises, in accordance with international law, sovereign rights for the purpose of exploration and exploitation of the natural resources of such areas;

ARTICLE II

Promotion and Protection of Investment

- 1) Each Contracting Party shall encourage the creation of favourable conditions for investors of the other Contracting Party to make investments in its territory.
- 2) Subject to its laws and regulations, each Contracting Party shall admit investments of investors of the other Contracting Party.
- 3) This Agreement shall not preclude either Contracting Party from prescribing laws and regulations in connection with the establishment of new business enterprises or the acquisition of business enterprises in its territory, provided that such laws and regulations are applied equally to all foreign investors. Decisions taken pursuant to such laws and regulations shall not be subject to the provisions of Articles X or XII of this Agreement.
- 4) Investments or returns of investors of either Contracting Party shall at all times be accorded fair and equitable treatment in accordance with principles of international law and shall enjoy full protection and security in the territory of the other Contracting Party.

ARTICLE III

Most-favoured-nation Provisions

1) Each Contracting Party shall grant to investments or returns of investors of the other Contracting Party in its own territory, treatment no less favourable than that which it grants to investments or returns of investors of any third State.

2) Each Contracting Party shall grant investors of the other Contracting Party, as regards their management, use, enjoyment or disposal of their investments or returns in its territory, treatment no less favourable than that which it grants to investors of any third State.

ARTICLE IV

National Treatment

Each Contracting Party shall, to the extent possible and in accordance with its laws and regulations, grant to investments or returns of investors of the other Contracting Party treatment no less favourable than that which it grants to investments or returns of its own investors.

ARTICLE V

Exceptions

The provisions of this Agreement shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefits of any treatment, preference or privilege resulting from any existing or future bilateral or multilateral agreement:

- a) establishing a free trade area or customs union;
- b) liberalizing trade in services;

- c) for mutual economic assistance, integration or cooperation;
- d) relating to taxation.

ARTICLE VI

Compensation for Losses

Investors of one Contracting Party who suffer losses because their investments or returns on the territory of the other Contracting Party are affected by an armed conflict, a national emergency or civil strife or a natural disaster on that territory, shall be accorded by such latter Contracting Party, in respect of restitution, indemnification, compensation or other settlement, treatment no less favourable than that which it accords to its own investors or to investors of any third State.

ARTICLE VII

Expropriation

1) Investments or returns of investors of either Contracting Party shall not be nationalized, expropriated or subjected to measures having an effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party, except for a public purpose, under due process of law, in a non-discriminatory manner and against prompt, adequate and effective compensation. Such compensation shall be based on the genuine value of the investment expropriated immediately before the expropriation or before the impending expropriation became public or effective, whichever is earlier. The compensation shall be payable from the date of expropriation at a normal commercial rate of interest, shall be paid without delay and shall be effectively realizable and freely transferable.

2) The investor affected shall have a right, under the law of the Contracting Party making the expropriation, to prompt review, by a judicial or other independent authority of that Party, of its case and of the valuation of its investment in accordance with the principles set out in this Article.

ARTICLE VIII

Transfer of Funds

1) Each Contracting Party shall guarantee to an investor of the other Contracting Party the unrestricted transfer of investments and returns. Without limiting the generality of the foregoing, each Contracting Party shall also guarantee to the investor the unrestricted transfer of:

- a) funds in repayment of loans related to an investment;
- b) the proceeds of the total or partial liquidation of any investment;
- c) wages and other remuneration accruing to a citizen of the other Contracting Party who was permitted to work in connection with an investment in the territory of the other Contracting Party;
- d) any compensation owed to an investor by virtue of Articles VI or VII of the Agreement.

2) Transfers shall be effected without delay in the convertible currency in which the capital was originally invested or in any other convertible currency agreed by the investor and the Contracting Party concerned. Transfers shall be made at the rate of exchange applicable on the date of transfer.

ARTICLE IX

Subrogation

1) If a Contracting Party or any agency thereof makes a payment to any of its investors under a guarantee or a contract of insurance it has entered into in respect of an investment, the other Contracting Party shall recognize the validity of the subrogation in favour of such Contracting Party or agency thereof to any right of the investor.

2) A Contracting Party or any agency thereof which is subrogated to the rights of an investor in accordance with paragraph 1) of this Article, shall be entitled in all circumstances to the same rights as those of the investor in respect of the investment concerned and its related returns. Such rights may be exercised by the Contracting Party or any agency thereof or by the investor if the Contracting Party or any agency thereof so authorizes.

ARTICLE X

Settlement of Disputes between an Investor and the Host Contracting Party

1) Disputes which arise within the terms of this Agreement between an investor of one Contracting Party and the other Contracting Party, which have not been amicably settled after a period of three months has elapsed from written notification of a claim, shall be submitted, at the request of one of the parties involved, to the decision of the competent tribunal of the Contracting Party in whose territory the investment was made.

2) The aforementioned disputes shall be submitted to international arbitration if one of the parties so requests, in any of the following circumstances:

- (i) where the Contracting party, in accordance with the powers which its internal law confers upon it, and the investors of the other Contracting Party have so agreed; or
 - (ii) where, after a period of eighteen months has elapsed from the moment when the dispute was submitted to the competent tribunal of the Contracting Party in whose territory the investment was made, the said tribunal has not given its final decision; or
 - (iii) where it is considered by either party that the final decision of the aforementioned tribunal is manifestly unjust or violates the provisions of this Agreement. In this circumstance the international arbitral tribunal rule on the controversy between the parties in its entirety if it is satisfied that the party submitting the matter to arbitration was justified in doing so.
- 3) Where the dispute is referred to international arbitration, the investor and the Contracting Party concerned in the dispute may agree to refer the dispute to:
- a) either an international arbitrator or ad hoc arbitration tribunal of three members according to what has been expressly chosen by the parties. The arbitrator or arbitrators shall be appointed by a special agreement or in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL); or
 - b) the International Centre for the Settlement of Investment Disputes where both Contracting Parties are party to the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature at Washington DC on 18 March 1965.

If after a period of three months from the submission of the dispute to arbitration there is no agreement to one of the above alternative procedures, the arbitration shall be undertaken by an ad hoc tribunal of three members and the parties to the dispute shall be bound to submit it to arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law as then in force. Notwithstanding the above, where the Secretary General of the Permanent Court of Arbitration at the Hague or the appointing authority are nationals or citizens of one of the Contracting Parties, or where it is not possible for them to undertake this function, the President of the Court of Arbitration of the International Chamber of Commerce in Paris shall be the person to make the appointment. Where the President is a national or citizen of one of the Contracting Parties or if he is prevented from doing the above, the Vice-President of the Court of Arbitration of the International Chamber of Commerce in Paris or the member of the said Court next in seniority and who is not a national or citizen of either of the Contracting Parties shall be invited to make the appointment. The parties may agree in writing to modify the UNCITRAL Rules.

4) Neither Contracting Party shall bring an international claim in respect of a dispute which one of its investors and the other Contracting Party have submitted to the decision of the competent tribunal of the Party in whose territory the investment was made or to the arbitration provided for in this Article, unless such other Contracting Party shall have failed to abide by and comply with the award rendered in such dispute.

ARTICLE XI

Consultations and Exchange of Information

Upon request by either Contracting Party, the other Contracting Party shall agree promptly to consultations on the interpretation or application of this Agreement. Upon request by either Contracting Party,

information shall be exchanged on the impact that the laws, regulations, decisions, administrative practices or procedures, or policies of the other Contracting Party may have on investments covered by this Agreement.

ARTICLE XII

Disputes between the Contracting Parties

- 1) Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, whenever possible, be settled amicably through consultations.

- 2) If a dispute cannot be settled through consultations within a period of six months, it shall, at the request of either Contracting Party, be submitted to an arbitral tribunal for decision.

- 3) An arbitral tribunal shall be constituted for each dispute. Within two months after receipt through diplomatic channels of the request for arbitration, each Contracting Party shall appoint one member to the arbitral tribunal. The two members shall then select a national of a third State who, upon approval by the two Contracting Parties, shall be appointed Chairman of the arbitral tribunal. The Chairman shall be appointed within two months from the date of appointment of the other two members of the arbitral tribunal.

- 4) If within the periods specified in paragraph 3) of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President is a national or citizen of either Contracting Party or is otherwise prevented from discharging the said function, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a national or citizen of either Contracting Party or is prevented from discharging the said function, the Member of the

International Court of Justice next in seniority, who is not a national or citizen of either Contracting Party, shall be invited to make the necessary appointments.

5) The arbitral tribunal shall determine its own procedure. The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be binding on both Contracting Parties. Unless otherwise agreed, the decision of the arbitral tribunal shall be rendered within six months of the appointment of the Chairman in accordance with paragraphs 3) or 4) of this Article.

6) Each Contracting Party shall bear the costs of its own member of the tribunal and of its representation in the arbitral proceedings; the costs related to the Chairman and any remaining costs shall be borne equally by the Contracting Parties. The arbitral tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two Contracting Parties, and this award shall be binding on both Contracting Parties.

ARTICLE XIII

Other International Agreements

1) When a matter is covered both by the provisions of this Agreement and any other international agreement to which both Contracting Parties are bound, the provisions of this Agreement shall not impede an investor of one Contracting Party that has investments in the territory of the other Contracting Party from benefitting from the most favourable regime.

2) If a dispute arises with respect to matters covered by the agreements referred to in paragraph 1, the investor shall choose the procedures provided for in one such agreement to govern the resolution of the dispute.

ARTICLE XIV

Application

This Agreement shall apply to any investment made by an investor of one Contracting Party in the territory of the other Contracting Party before or after the entry into force of this Agreement. It shall not apply to a dispute between an investor of one Party and the other Contracting Party that arose before its entry into force.

ARTICLE XV

Entry into force

1) Each Contracting Party shall notify the other in writing of the completion of the constitutional formalities required in its territory for the entry into force of this Agreement. This Agreement shall enter into force on the date of the latter of the two notifications.

2) This Agreement shall remain in force for a period of ten years. Unless one Contracting Party shall have given notice to the other Contracting Party of its intention to terminate the Agreement one year before the end of the ten year term, the Agreement, including this Article, shall be extended automatically for a further ten year term. In respect of investments or commitments to invest made prior to the termination of this Agreement, the provisions of Articles I to XIV inclusive shall remain in force for a period of fifteen years.

EN FE DE LO CUAL los suscritos, debidamente autorizados por sus respectivos Gobiernos, han firmado este Acuerdo.

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

EN FOI DE QUOI les soussignés, dûment autorisés par leurs gouvernements respectifs, ont signé le présent Accord.

HECHO en Ottawa, el dia ...16..... del mes de *mayo*... de 1991, en dos originales, cada uno en los idiomas inglés, francés y español, siendo los textos igualmente auténticos en cada uno de los tres idiomas.

DONE at Ottawa..... this *16th* day of *May*,...1991 in two originals, each in the Spanish, English and French languages, the texts in each of the three languages having equal authenticity.

FAIT à Ottawa ce ...*16^e*..... jour de *mai*..... 1991, en deux exemplaires, chacun en langues espagnole, anglaise et française, chacun des textes faisant également foi.

POR
EL GOBIERNO DE LA REPÚBLICA
ORIENTAL DEL URUGUAY

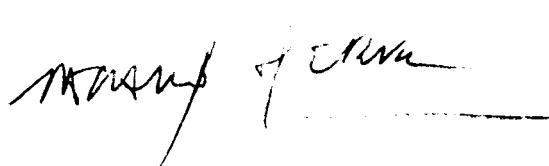
POR
EL GOBIERNO DE CANADA

FOR
THE GOVERNMENT OF THE
ORIENTAL REPUBLIC OF URUGUAY

FOR
THE GOVERNMENT OF CANADA

POUR
LE GOUVERNEMENT DE LA
RÉPUBLIQUE ORIENTALE DE L'URUGUAY

POUR
LE GOUVERNEMENT DU CANADA



P R O T O C O L

For the purposes of sub-paragraph a) of Article I, an asset is held or invested indirectly:

- (i) when the investor of one Contracting Party makes the investment through juridical persons owned or controlled by it; or
- (ii) in any other circumstances when an investment is recognized by the contracting Party in whose territory the investment is made as being an investment of an investor of the other Contracting Party.

Each Contracting Party may require an investor to demonstrate that it controls the juridical person referred to in (i). This may be done, for example, by demonstrating that the juridical person is a subsidiary of the investor, or that the investor controls it in fact through the exercise of shareholders rights or through a contractual relationship.

With respect to point (ii) an investment may be "recognized" through a communication in writing to the investor from responsible authorities of the Contracting Party in whose territory the investment is made.