

No. 19573

**FRANCE
and
PARAGUAY**

**Convention on the reciprocal encouragement and protection
of investments (with exchange of letters). Signed at
Asunción on 30 November 1978**

Authentic texts: French and Spanish.

Registered by France on 20 February 1981.

**FRANCE
et
PARAGUAY**

**Convention sur l'encouragement et la protection réci-
proques des investissements (avec échange de lettres).
Signée à Asunción le 30 novembre 1978**

Textes authentiques : français et espagnol.

Enregistrée par la France le 20 février 1981.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF PARAGUAY ON THE RECIPROCAL ENCOURAGEMENT AND PROTECTION OF INVESTMENTS

The Government of the French Republic and the Government of the Republic of Paraguay,

Desiring to develop economic co-operation between the two States and to create favourable conditions for French investments in the Republic of Paraguay and for Paraguayan investments in France,

Convinced that, within the framework of this Convention, ties of association between investors of the two Contracting Parties will be promoted,

Confident that the promotion and protection of such investments are likely to stimulate transfers of capital and of technology between the two countries in the interests of their economic development,

Have agreed on the following provisions:

Article 1. For the purposes of this Convention:

(1) The term "investments" shall apply to all categories of property, rights and interests, particularly but not exclusively:

- (a) Movable and immovable property and all other real rights such as mortgages, preferences, usufructs, sureties and similar rights;
- (b) Shares, issue premiums and other forms of participation, albeit minority or indirect, in companies organized in the territory of either Party;
- (c) Claims, bonds or any rights to benefits having an economic value;
- (d) Copyright, industrial property rights, technical processes, registered trade names and goodwill;
- (e) Concessions accorded by law or by virtue of a contract, including concessions for prospecting, cultivating, mining or developing natural resources;

it being understood that the said assets, whatever form they may take, shall be invested in accordance with the legislation of the Contracting Party in whose territory the investment is made, before or after the entry into force of this Convention.

Any change in the form in which assets are invested shall not affect their status as an investment, provided that the change is not contrary either to the legislation of the State in whose territory the investment is made or to the approval granted for the original investment.

(2) The term "nationals" shall apply to individuals having the nationality of either Contracting Party.

¹ Came into force on 11 December 1980, i.e., one month after the date of the exchange of the instruments of ratification (effected on 6 August and 11 November 1980), in accordance with article 13.

(3) The term “companies” shall apply to any body corporate organized in the territory of either Contracting Party in accordance with its legislation and having its registered office there.

Article 2. Each Contracting Party shall, within the framework of its legislation, allow and encourage investments in its territory by nationals and companies of the other Contracting Party.

Article 3. Each Contracting Party shall undertake to accord in its territory just and equitable treatment, in accordance with the principles of international law, to the investments of nationals and companies of the other Party and to ensure that the exercise of the right so granted is not impeded either *de jure* or *de facto*.

Such treatment shall be at least the same as the most favourable treatment accorded in the territory of the Party concerned.

Article 4. Nationals and companies of either Contracting Party shall for the purpose of engaging in professional and economic activities connected with the investments which they have made in the territory of the other Party, be covered by the national régime or the most favourable régime applied in the territory of the Party concerned.

Article 5. The Contracting Parties shall take no nationalization or expropriation measures or any other measures which would result in directly or indirectly dispossessing the nationals or companies of the other Party of their investments in its territory, except for reasons of public necessity and on condition that such measures are not discriminatory.

Any nationalization or expropriation measures taken shall give rise to the payment of fair compensation, which shall correspond to the real value of the said investments on the date of such nationalization or expropriation.

Such compensation, the amount and methods of payment of which shall be determined not later than the date of dispossession, shall be effectively realizable. It shall be paid without delay and be freely transferable.

Article 6. A Contracting Party, in whose territory investments have been made by nationals or companies of the other Contracting Party, shall ensure that foreign exchange is available to such nationals or companies in order to guarantee the free transfer of:

- (a) Income from investments made;
- (b) Royalties from the rights listed in article 1 (1) above;
- (c) Payments for interest, commissions and the repayment of loans and of funds borrowed under contracts;
- (d) Proceeds of the transfer or complete or partial liquidation of the investment, including appreciation or increase in the invested capital;
- (e) The compensation for nationalization or expropriation provided for in article 5 above.

Nationals of each Contracting Party who have been authorized to work in connection with an investment made in the territory of the other Contracting Party shall also be authorized to transfer to their country of origin an appropriate portion of their remuneration.

The transfers referred to in the preceding paragraphs shall be carried out without delay and at the rate of exchange applied by the Central Bank on the date of transfer.

Article 7. In so far as the regulations of one Contracting Party provide for guaranteeing external investments, a guarantee may be granted, on the basis of a case-by-case review, for investments made by its nationals or companies in the territory of the other Party.

The guarantee referred to in the preceding paragraph shall not be available for investments by nationals and companies of one Contracting Party in the territory of the other Party unless the investments have been granted prior approval by the latter Party.

Article 8. Each Contracting Party shall agree to submit to the International Centre for Settlement of Investment Disputes (ICSID) any dispute which may arise between it and a national or company of the other Contracting Party, also in cases where the latter enters into the rights of one of its nationals or companies under article 9 of this Convention.

Article 9. When one Contracting Party, by virtue of a guarantee issued in respect of an investment in the territory of the other party, makes payments to one of its own nationals or companies, it shall thereby enter into the rights and shares of the said national or company. The subrogation of rights shall also extend to the right of transfer referred to in article 6 above.

Article 10. Investments which have been the subject of a specific undertaking by one Contracting Party *vis-à-vis* nationals and companies of the other Party shall be governed, without prejudice to the provisions of this Convention, by the terms of that undertaking, in so far as its provisions are more favourable than those laid down by this Convention.

Article 11. The régime provided for in articles 3 and 4 of this Convention shall not, however, extend to the privileges accorded by a Contracting Party to the nationals and companies of a third State by virtue of its participation in agreements relating to a free trade area, customs union or common market, or to agreements concluded with Latin American States.

Article 12. Any dispute concerning the interpretation or application of this Convention which cannot be settled within a period of six months through the diplomatic channel may be submitted, at the request of either Contracting Party, to an arbitral tribunal to be formed in the following manner:

Each Contracting Party shall designate an arbitrator within one month of the date on which the request for arbitration is received. The two arbitrators so designated shall, within two months of the notification by the Party which was the later in designating its arbitrator, choose a third arbitrator, who shall be a national of a third State, to serve as chairman of the arbitral tribunal.

If the time-limits specified in the preceding paragraph are not observed either Contracting Party may, in the absence of any other agreement on the matter, request the Secretary-General of the United Nations to make the necessary designations. If the Secretary-General is a national of either Contracting Party or if, for some other reason, he is prevented from performing this function, the most senior Under-Secretary-General not having the nationality of either Contracting Party shall make the necessary designations.

The Contracting Parties may agree beforehand to designate, for a period of five years, subject to extension for further similar periods, a person to serve as the third arbitrator in the event of a dispute. The tribunal shall take its decisions by a majority of votes. The decision of the arbitral tribunal shall be final and fully enforceable.

The tribunal shall establish its own rules of procedure.

Each Contracting Party shall defray the expenses incurred by the arbitrator designated by it in accordance with the foregoing provisions. Expenses connected with the chairman and other expenses shall be shared equally by the two Contracting Parties.

Article 13. This Convention shall be approved in accordance with the constitutional procedure applicable in each of the two States. The exchange of instruments of ratification or approval shall take place as soon as possible.

This Convention shall enter into force one month after the date of the exchange of instruments of ratification or approval.

This Convention is concluded for an initial period of 10 years. It shall remain in force thereafter unless one year's notice of termination is given in writing through the diplomatic channel by either Contracting Party.

In the event of termination, this Convention shall continue to be applicable to investments made or authorized prior to its termination for the period provided for each such investment. This period shall be not less than 10 years or more than 20 years following the date of termination.

IN WITNESS WHEREOF, the representatives of the two Governments, duly authorized thereto, have signed this Agreement.

DONE at Asunción on 30 November 1978, in two originals in the French and Spanish languages, both texts being equally authentic.

For the Government
of the French Republic:
[LÉON BOUVIER]

For the Government
of the Republic of Paraguay:
[ALBERTO NOGUÉS]

EXCHANGE OF LETTERS

I

MINISTRY OF FOREIGN AFFAIRS

Asunción, 30 November 1978

N.R. No. 25/78

Sir,

I have the honour to refer to the "Convention on the reciprocal encouragement and protection of investments" concluded between the Governments of our two countries on today's date, which will enter into force one month after

the date of the exchange of instruments of ratification or approval, and to propose the following arrangement in that connection:

1. For the purposes of article 1 of the Convention on the reciprocal encouragement and protection of investments, French investors shall comply with the obligations laid down in Act No. 550 of 19 December 1975 on "Investment promotion for economic and social development" of the Republic of Paraguay, or with any enactment replacing, amending or supplementing it in the future.

2. The following procedure is established for obtaining legal approval for investments to be made in the Republic of Paraguay:

- (a) The national or company in question shall submit an application to the Ministry of Foreign Affairs, accompanied by the project concerned;
- (b) The application shall be considered first by the Central Bank of Paraguay and subsequently by the Ministry responsible for the sector to which the principal project relates;
- (c) The Executive Branch shall issue the decree authorizing the investment in accordance with this Convention.

This procedure shall be followed in every case.

3. The free transfer referred to in article 6 of the Convention shall be effected in accordance with the investment, banking, administrative and financial laws governing such operations in the Republic of Paraguay.

It is understood that the effect of such laws shall not be at variance with the provisions contained in article 6 of the said Convention.

If the Government of France is in agreement with the foregoing, this note and your reply shall constitute an agreement between the two Governments which shall enter into force one month after the date of the exchange of instruments of ratification or approval.

Accept, Sir, etc.

[Signed]

ALBERTO NOGUÉS
Minister for Foreign Affairs

His Excellency Mr. Léon Bouvier
Ambassador Extraordinary and Plenipotentiary
of the French Republic
Asunción

II

FRENCH REPUBLIC
AMBASSADOR OF FRANCE

Asunción, 30 November 1978

Sir,

I have the honour to acknowledge receipt of your letter N. R. No. 25/78 dated 30 November 1978, reading as follows:

[See letter I]

I have the honour to confirm my agreement to the above text.

Accept, Sir, etc.

[LÉON BOUVIER]

His Excellency Mr. Alberto Nogués
Minister for Foreign Affairs
of the Republic of Paraguay
