

No. 29497

**FEDERAL REPUBLIC OF GERMANY
and
BOLIVIA**

**Treaty concerning the promotion and mutual protection of
investments (with protocol). Signed at La Paz on
23 March 1987**

Authentic texts: German and Spanish.

Registered by Germany on 28 January 1993.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
BOLIVIE**

**Traité relatif à l'encouragement et à la protection réciproque
des investissements (avec protocole). Signé à La Paz le
23 mars 1987**

Textes authentiques : allemand et espagnol.

Enregistré par l'Allemagne le 28 janvier 1993.

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY
AND THE REPUBLIC OF BOLIVIA CONCERNING THE PRO-
MOTION AND MUTUAL PROTECTION OF INVESTMENTS

The Federal Republic of Germany and the Republic of Bolivia,

Desiring to intensify economic cooperation between the two States,

Intending to create favourable conditions for investments by nationals and companies of either State in the territory of the other State, and

Recognizing that the promotion and contractual protection of such investments are apt to stimulate private business initiative and to increase the prosperity of the two nations,

Have agreed as follows:

Article 1

For the purpose of this Treaty:

(1) The term “investments” shall comprise every kind of asset, in particular:

(a) Movable and immovable property as well as any other rights *in rem*, such as mortgages, liens and pledges;

(b) Shares of companies and other kinds of interest;

(c) Claims to money which has been used to create an economic value or claims to any performance having an economic value;

(d) Copyrights, industrial property rights, technical processes, trade marks, trade names, know-how and goodwill;

(e) Business concessions under public law, including concessions to search for, extract and exploit natural resources.

Any alteration of the form in which assets are invested shall not affect their classification as an investment.

(2) The term “returns” shall mean the amounts yielded by an investment for a definite period as profit, dividends, interest, licence or other fees.

(3) The term “nationals” shall mean:

(a) In respect to the Federal Republic of Germany:

Germans within the meaning of the Basic Law of the Federal Republic of Germany;

(b) In respect of the Republic of Bolivia:

Bolivians within the meaning of the Political Constitution and other relevant legal provisions in force in its territory.

¹ Came into force on 9 November 1990, i.e., one month after the exchange of the instruments of ratification, which took place at Bonn on 9 October 1990, in accordance with article 14 (2).

(4) The term “companies” shall mean:

(a) In respect of the Federal Republic of Germany:

Any juridical person as well as any commercial or other company or association with or without legal personality having its seat in the German areas of application of this Treaty, irrespective of whether or not its activities are directed at profit;

(b) In respect of the Republic of Bolivia:

Any company, corporation and firm established in conformity with the legal provisions in force in any part of its territory.

Article 2

(1) Each Contracting Party shall, in accordance with its legislation, permit in its territory investments of capital by nationals or companies of the other Contracting Party and promote such investments as far as possible. It shall in any case accord such investments fair and equitable treatment.

(2) Neither Contracting Party shall, through arbitrary or discriminatory measures, prejudice the management, maintenance, use and enjoyment in its territory of the investments of nationals or companies of the other Contracting Party.

Article 3

(1) Neither Contracting Party shall subject investments in its territory owned or influenced by nationals or companies of the other Contracting Party to treatment less favourable than it accords to investments of its own nationals or companies or to investments of nationals or companies or any third State.

(2) Neither Contracting Party shall subject nationals or companies of the other Contracting Party in its territory, insofar as their investment related activities are concerned, to treatment less favourable than it accords to its own nationals and companies or to nationals and companies of any third State.

(3) Such treatment shall not extend to privileges which either Contracting Party accords to nationals or companies of third States on account of their membership in or in association with a customs or economic union, a common market or a free-trade area.

(4) The treatment granted under this article shall not refer to privileges granted by either Contracting Party to nationals or companies of third States by virtue of a double taxation agreement or other agreements regarding matters of taxation.

Article 4

(1) Investments by nationals or companies of either Contracting Party shall enjoy full protection as well as security in the territory of the other Contracting Party.

(2) Investments by nationals or companies of either Contracting Party shall not be expropriated, nationalized, or subjected to any other measure the effects of which would be tantamount to expropriation or nationalization in the territory of the other Contracting Party, except for the public benefit and against compensation. Compensation shall be equivalent to the value of the investment expropriated immediately before the date of actual impending expropriation, nationalization or com-

parable measure was publicly announced. The compensation shall be paid without delay and shall carry the usual bank interest until the time of payment; it shall be actually realizable and freely transferable. Appropriate measures must be taken by the time of expropriation, nationalization or comparable measure, at the latest, to determine the amount of compensation and to pay it. The legality of any such expropriation, nationalization or comparable measure and the amount of compensation shall be subject to review by due process of law.

(3) Nationals or companies of either Contracting Party whose investments suffer losses in the territory of the other Contracting Party owing to war or other armed conflict, revolution, a state of national emergency, or revolt, shall be accorded by such other Contracting Party treatment no less favourable than that which that Party accords to its own nationals or companies as regards restitution, indemnification, compensation or other valuable consideration. Such payments shall be freely transferable.

(4) Nationals or companies of either Contracting Party shall enjoy most-favoured-nation treatment in the territory of the other Contracting Party in respect of the matters provided for in this article.

Article 5

Each Contracting Party shall guarantee to the nationals or companies of the other Contracting Party the free transfer of payments connected with an investment, especially:

- (a) Of the capital and additional amounts to maintain or increase the investment;
- (b) Of the returns;
- (c) In repayment of loans;
- (d) Of licence and other fees for the rights defined in article 1, paragraph 1 (d);
- (e) Of the proceeds from the sale of the whole or any part of the investment.

Article 6

If either Contracting Party makes payment to any of its nationals or companies under a guarantee it has assumed in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall, without prejudice to the rights of the former Contracting Party under article 10, recognize the assignment, whether under a law or pursuant to a legal transaction, of any right or claim from such national or company to the former Contracting Party. The latter Contracting Party shall also recognize the subrogation of the former Contracting Party to any such right or claim (assigned claims) which that Contracting Party shall be entitled to assert to the same extent as its predecessor in title. As regards the transfer of payments by virtue of such assignment, article 4, paragraphs 2 and 3, as well as article 5 shall apply *mutatis mutandis*.

Article 7

(1) Transfers pursuant to article 4, paragraph 2 or 3, article 5, or article 6 shall be made without delay at the rate in effect in each case.

(2) Such a rate shall coincide with the cross rate resulting from the exchange rates which the International Monetary Fund would apply if, at the time of pay-