

No. 30087

**SPAIN
and
POLAND**

**Agreement on the reciprocal promotion and protection of
investments. Signed at Madrid on 30 July 1992**

Authentic texts: Spanish, Polish and English.

Registered by Spain on 17 June 1993.

**ESPAGNE
et
POLOGNE**

**Accord relatif à la protection et à l'encouragement réci-
proques des investissements. Signé à Madrid le 30 juillet
1992**

Textes authentiques : espagnol, polonais et anglais.

Enregistré par l'Espagne le 17 juin 1993.

AGREEMENT¹ BETWEEN THE KINGDOM OF SPAIN AND REPUBLIC OF POLAND ON THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Kingdom of Spain and the Republic of Poland, hereinafter referred to as "The Contracting Parties",

DESIRING to intensify their economic cooperation for the mutual benefit of both countries,

INTENDING to create favorable conditions for investments made by investors of each Contracting Party in the territory of the other Contracting Party, and

RECOGNIZING that the promotion and protection of investments under this Agreement will stimulate initiatives in this field,

Have agreed as follows:

ARTICLE 1

DEFINITIONS

For the purposes of the present Agreement,

1. The term "Investor" means:

a) any natural person having the status of resident of the Contracting Party concerned under the law in force in that Contracting Party;

b) any legal entity, including companies, associations of companies, trading corporate entities and other organizations which is incorporated or, in any event, is properly organized under the law of that Contracting Party.

¹ Came into force on 1 May 1993, i.e., 30 days after the date of the last of the notifications (of 8 March and 1 April 1993) by which the Contracting Parties had informed each other of the completion of the required procedures, in accordance with article 12 (1).

2. The term "Investment" shall comprise every kind of asset, invested by investors, of one Contracting Party, provided that the investment has been made in accordance with the laws and regulations of the other Contracting Party, and shall include in particular, though not exclusively:

- shares and other forms of participation in companies;
- rights arising from all types of contributions made for the purpose of creating economic value, including every loan granted for this purpose, whether capitalized or not;
- movable and immovable property and any other property rights such as mortgages, liens or pledges;
- any rights in the field of intellectual property, including patents and trademarks, as well as manufacturing licences and know-how;
- rights to engage in economic and commercial activities authorized by law or by virtue of a contract, particularly those rights to search for, cultivate, extract or exploit natural resources.

3. The term "returns" refers to income derived from an investment described with the definition above, and includes, in particular, profits, dividends and interests.

4. The term "territory" designates the land territory and territorial sea of each of the Contracting Parties, as well as the exclusive economic zone and the continental shelf that extends outside the limits of the territorial sea of each of the Contracting Parties, over which they have or may have jurisdiction and sovereign rights for the purposes of prospecting, exploration and conservation of natural resources, pursuant to international law.

ARTICLE 2

PROMOTION, ACCEPTANCE

1. Each Contracting Party shall encourage, insofar as possible, the investments made in its territory by investors of the other Contracting Party and shall admit such investments pursuant to its laws.

2. This Agreement shall likewise be applicable to investments made before its entry into force by investors of one Party under the legal provisions of the other Contracting Party in the territory of the latter from the 26th of July 1976.

ARTICLE 3

PROTECTION

1. Each Contracting Party shall protect in its territory the investments made in accordance with its laws and regulations, by investors of the other Contracting Party and shall not hamper, by means of unjustified or discriminatory measures, the management, maintenance, use, enjoyment, expansion, sale and if it is the case, the liquidation of such investments.

2. Each Contracting Party shall endeavour to grant the necessary permits relating to these investments and shall allow, within the framework of its laws, the execution of contracts related to manufacturing-licences and technical, commercial, financial and administrative assistance.

3. Each Contracting Party shall also endeavour, whenever necessary, to grant the permits required in connection with the activities of consultants or experts engaged by investors of the other Contracting Party.

ARTICLE 4

TREATMENT

1. Each Contracting Party shall at all times ensure fair and equitable treatment of the investments by investors of the other Contracting Party and shall not impair the management, maintenance, use, enjoyment or disposal thereof, as well as the acquisition of goods and services and the sale of its production, through unjustified or discriminatory measures.

2. Each Contracting Party shall grant full legal protection to investments in its territory by investors of the other Contracting Party and shall accord to such investments a treatment which is no less favourable than that accorded to investments by its own investors or by investors of third States. This provision shall also apply to the returns yielded by investments.

3. Notwithstanding the provisions of Paragraph 2 of this Article, the treatment of the most favoured nation shall not apply to privileges which one Contracting Party accords to investors of a third State because of its membership in, or association with a free trade area customs union, common market or organization for mutual economic assistance or by virtue of an agreement entered into before the signature of this convention which contains provisions similar those granted by that Party to the members of such organization.

4. The provisions of Paragraph 2 of this Article shall not be construed so as to oblige one Contracting Party to extend to investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from any international agreement or arrangement relating wholly or mainly to taxation or accorded on a reciprocity basis.

ARTICLE 5 COMPENSATION FOR LOSSES

Investors of one Contracting Party whose investments or returns in the territory of the other Contracting Party suffer losses owing to war, other armed conflicts, a state of national emergency or other similar circumstances in the territory of the latter shall be accorded, as regards restitution, indemnification, compensation or other settlement, treatment no less favourable than that which the latter Contracting Party grants to its investors or to investors of any third State. Any payment made under this Article shall be prompt, adequate, effective and freely transferable.