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**SPAIN
and
CHINA**

**Agreement on reciprocal encouragement and protection of
investments. Signed at Madrid on 6 February 1992**

Authentic texts: Spanish, Chinese and English.

Registered by Spain on 21 October 1993.

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**ESPAGNE
et
CHINE**

**Accord relatif à l'encouragement et à la protection récipro-
ques des investissements. Signé à Madrid le 6 février
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Textes authentiques : espagnol, chinois et anglais.

Enregistré par l'Espagne le 21 octobre 1993.

AGREEMENT¹ ON RECIPROCAL ENCOURAGEMENT AND PROTECTION OF INVESTMENTS BETWEEN THE KINGDOM OF SPAIN AND THE PEOPLE'S REPUBLIC OF CHINA

The Kingdom of Spain and the People's Republic of China, hereinafter referred to as "The Contracting Parties",

Desiring to encourage, protect and create favorable conditions for investment by investors of one Contracting Party in the territory of the other Contracting Party based on the principles of mutual respect for sovereignty, equality and mutual benefit and for the purpose of the development of economic cooperation between both countries,

Have agreed as follows:

ARTICLE 1

For the purpose of this Agreement,

1. The term "investments" means every kind of assets invested by investors of one Contracting Party in accordance with the laws and regulations of the other Contracting Party in the territory of the Latter, including mainly:

a) movable and immovable property and other property rights such as mortgages, liens or pledges;

b) shares in companies or other forms of participation in companies;

c) a claim to money or to any performance having an economic value;

d) copyrights, industrial property, know-how and technological process;

e) concessions conferred by law or contract, including concessions to search for or exploit natural resources.

2. The term "investors" means:

in respect of the Kingdom of Spain:

a) natural persons who have nationality of the Kingdom of Spain according to its law;

¹ Came into force on 1 May 1993, i.e., the first day of the month following the date on which the Contracting Parties had notified each other (on 10 November 1992 and 15 April 1993) of the completion of their respective internal legal procedures, in accordance with article 13 (1).

b) economic entities established in accordance with the laws of the Kingdom of Spain and domiciled in its territory.

in respect of the People's Republic of China:

a) natural persons who have nationality of the People's Republic of China in accordance with its law;

b) economic entities established in accordance with the laws of the People's Republic of China and domiciled in the territory of the People's Republic of China;

3. The term "return" means the amount yielded by investments, such as profits, dividends, interests, royalties or other legitimate income.

4. The term "territory" designates the land territory and territorial waters of each of the Contracting Parties. This Agreement shall also apply to investments made by investors of either Contracting Party in the exclusive economic zone and the continental shelf that extends outside the limits of the territorial waters of the other Contracting Party, over which they have or may have sovereign rights and jurisdiction for the purpose of prospecting, exploration and conservation of natural resources, pursuant to international law.

ARTICLE 2

1. Each Contracting Party shall encourage investors of the other Contracting Party to make investments in its territory and admit such investments in accordance with its laws and regulations.

2. Each Contracting Party shall grant assistance and provide facilities for obtaining visa and working permit, within the framework of its law, to investors of the other Contracting Party in the territory of the Former in connection with activities associated with their investments, such as the execution of contracts related to manufacturing licences and technical, commercial, financial, administrative and consulting assistance.

ARTICLE 3

1. Investments made by investors of either Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy the most constant protection and security in the territory of the other Contracting Party. Each Contracting Party agrees that without prejudice to its laws and regulations it shall not take any unreasonable or discriminatory measure against the management, maintenance, use or disposal of investments in its territory of investors of the other Contracting Party. Each Contracting Party shall observe any obligation it may have

entered into with regard to investments of investors of the other Contracting Party.

2. The treatment and protection referred to in paragraph 1 of this Article shall not be less favorable than that accorded to investments and activities associated with such investments of investors of a third State.

3. The treatment and protection as mentioned in paragraph 1 and 2 of this Article shall not include any preferential treatment accorded by the other Contracting Party to investments of investors of a third State based on customs union, free-trade zone, economic union, agreement relating to avoidance of double taxation or for facilitating frontier trade.

4. In addition to the provisions of paragraph 2 of this Article, either Contracting Party shall accord treatment in accordance with the stipulations of its laws and regulations to the investments of investors of the other Contracting Party the same as that accorded to its own investors.

ARTICLE 4

1. Neither Contracting Party shall expropriate, nationalize or take similar measures, hereinafter referred to as expropriation, against investments of investors of the other Contracting Party in its territory, unless the following conditions are met:

- a) in the public interest;
- b) under domestic legal procedure;
- c) without discrimination;
- d) against compensation.

2. The compensation mentioned in Paragraph 1, (d) of this Article shall be equivalent to the value of the expropriated investments at the time when expropriation is proclaimed, be convertible and freely transferable. The compensation shall be paid without undue delay.

ARTICLE 5

1. Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, revolution, a state of national emergency, revolt, or riot in the territory of the latter Contracting Party shall be accorded by the latter Contracting Party treatment no less favourable than that which the latter Contracting Party accords to investors of any third State.