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**Argentina
and
South Africa**

Agreement between the Government of the Argentine Republic and the Government of the Republic of South Africa on the promotion and reciprocal protection of investments (with protocol). Buenos Aires, 23 July 1998

Entry into force: *1 January 2001, in accordance with article 11*

Authentic texts: *English and Spanish*

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**Argentine
et
Afrique du Sud**

Accord entre le Gouvernement de la République argentine et le Gouvernement de la République sud-africaine relatif à la promotion et à la protection réciproque des investissements (avec protocole). Buenos Aires, 23 juillet 1998

Entrée en vigueur : *1^{er} janvier 2001, conformément à l'article 11*

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**AGREEMENT
BETWEEN
THE GOVERNMENT OF THE ARGENTINE REPUBLIC
AND
THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA
ON THE
PROMOTION AND RECIPROCAL PROTECTION OF
INVESTMENTS**

The Government of the Argentine Republic and the Government of the Republic of South Africa, (hereinafter jointly referred to as the “Parties”, and in the singular as a “Party”);

Desiring to intensify economic cooperation between both States.

Aiming at creating favourable conditions for investments by investors of one Party in the territory of the other Party,

Recognising that the promotion and protection of such investments on the basis of an agreement will stimulate individual business initiative and will increase prosperity in both States,

Hereby agree as follows:

**ARTICLE 1
Definitions**

In this Agreement:

“investment” means, subject to the domestic law of the Party in whose territory the investment is made, every kind of asset invested by an investor of the other Party in the territory of the first mentioned Party, subject to the laws and regulations of the latter, and includes in particular, though not exclusively:

- (a) Movable and immovable property as well as any other property rights, such as mortgages, liens and pledges;
- (b) shares, stocks and any other kind of participation in companies;
- (c) title to money and claims to performance having an economic value; loans only being included when they are directly related to a specific investment;
- (d) intellectual property rights including in particular copyrights, patents, industrial designs, trademarks, trade names, technical processes, know-how and goodwill;
- (e) business concessions conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources.

Any alteration in the legal form under which the assets have been invested or reinvested shall not affect their qualification as investments according to this Agreement.

“investor” means:

- (a) any natural person who is a national of a Party in accordance with its laws;
- (b) any legal person constituted in accordance with the law of a Party and having its seat in the territory of that Party.

“returns” means all amounts yielded by an investment such as profits, dividends, interest, royalties and other current incomes, as well as capital gains.

“territory” means the national territory of either Party including those maritime areas adjacent to the outer limit of the territorial sea of the national territory, over which the Party concerned may, in accordance with international law, exercise sovereign rights or jurisdiction.

ARTICLE 2

Promotion of investments

1. Each Party shall promote in its territory investments by investors of the other Party and shall admit such investments subject to its law.
2. Each Party shall grant, subject to its law, the necessary permits in connection with such investments and with the carrying out of licensing agreements and contracts for technical, commercial or administrative assistance.

3. The nationals of each Party and the employees, and their families, of an investor of one Party, shall, subject to the law of the other Party, be permitted to enter into, remain in and leave the country of the last named Party, for the purpose of carrying out activities with regard to investments in the territory of that Party.

ARTICLE 3

Protection of investments

1. Each Party shall at all times ensure fair and equitable treatment of the investments by investors of the other Party and shall not impair the management, maintenance, use, enjoyment or disposal thereof through unjustified or discriminatory measures.
2. Each Party, once it has admitted investments in its territory by investors of the other Party, shall grant full legal protection to such investments and shall accord them treatment which is no less favourable than that accorded to investments by its own investors or by investors of third States.
3. Notwithstanding the provisions of Paragraph (2) of this Article, the treatment of the most favoured nation shall not apply to privileges which either 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 regional agreement.
4. The provisions of Paragraph (2) of this Article shall not be construed so as to oblige one Party to extend to investors of the other Party the benefit of any treatment, preference or privilege resulting from an international agreement relating wholly or mainly to taxation.

ARTICLE 4

Expropriation and compensation

1. Neither of the Contracting Parties shall take any measure of nationalization or expropriation or any other measure having the same effect against investments in its territory belonging to investors of the other Party, unless the measures are taken in the public interest, on a non discriminatory basis, under due process of law and accompanied by provisions for the payment of prompt, adequate and effective compensation. Such compensation shall amount to the market value of the expropriated investment immediately before the expropriation or before the impending expropriation became public knowledge, shall include interest from the date of expropriation at a normal commercial rate, shall be paid without delay and shall be effectively realizable and freely transferable.
2. Investors of one Party who suffer losses of their investments in the territory of the other Party due to war or other armed conflict, a state of national emergency,

revolt, insurrection or riot shall be accorded, with respect to restitution, indemnification, compensation or other settlement, treatment which is no less favourable than that accorded to its own investors or to investors of any third state.

ARTICLE 5

Transfers

1. Each Party shall grant to investors of the other Party the unrestricted transfer of investments and returns and in particular, though not exclusively, of -
 - (a) the capital and additional sums necessary for the maintenance and development of the investments;
 - (b) gains, profits, interests, dividends and other current income;
 - (c) funds in repayment of loans that are directly related to a specific investment;
 - (d) royalties and fees;
 - (e) the proceeds from a total or partial sale or liquidation of an investment;
 - (f) compensations provided for in Article 4;
 - (g) the net earnings of nationals of one Party who are allowed to work in connection with an investment in the territory of the other Party.
2. Transfers shall be effected without delay in a freely convertible currency, at the normal applicable exchange rate at the date of the transfer, in accordance with the procedures established by the Party in whose territory the investment was made, which shall not impair the substance of the rights set forth in this Article. In the absence of a free market for foreign exchange, such exchange rates shall not differ more than marginally from the cross rate of the exchange rates the International Monetary Fund (IMF) would apply on the date the transfer is made, if it exchanges the money of the countries concerned for Special Drawing Rights (SDR).

ARTICLE 6

Subrogation

1. If a Party or its designated agency makes a payment to any of its investors under a guarantee or insurance it has contracted in respect of an investment, the other Party shall recognize the validity of the subrogation in favour of the former Party or its designated agency to any right or title held by the investor. The Party or its