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**Peru
and
Canada**

Agreement between Canada and the Republic of Peru for the promotion and protection of investments (with annexes). Hanoi, 14 November 2006

Entry into force: *18 June 2007 by notification, in accordance with article 52(2)*

Authentic texts: *English, French and Spanish*

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**Pérou
et
Canada**

Accord entre le Canada et la République du Pérou pour la promotion et la protection des investissements (avec annexes). Hanoï, 14 novembre 2006

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[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT
BETWEEN
CANADA
AND
THE REPUBLIC OF PERU
FOR THE PROMOTION AND PROTECTION OF INVESTMENTS**

CANADA AND THE REPUBLIC OF PERU, hereinafter referred to as the "Parties",

RECOGNIZING that the promotion and the protection of investments of investors of one Party in the territory of the other Party will be conducive to the stimulation of mutually beneficial business activity, to the development of economic cooperation between them and to the promotion of sustainable development,

HAVE AGREED AS FOLLOWS:

SECTION A - DEFINITIONS

ARTICLE 1

Definitions

For the purpose of this Agreement:

administrative ruling of general application means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct, but does not include:

- (i) a determination or ruling made in an administrative or quasi judicial proceeding that applies to a particular person, good or service of the other Party in a specific case; or
- (ii) a ruling that adjudicates with respect to a particular act or practice.

affiliate a person is an affiliate of another person when:

- (i) directly or indirectly, it controls or is controlled by that other person, or
- (ii) it and the other person are both controlled, directly or indirectly, by the same person;

Commission means the body established by the Parties under Article 50;

confidential information means business confidential information and information that is privileged or otherwise protected from disclosure;

covered investment means, with respect to a Party, an investment in its territory of an investor of the other Party existing on the date of entry into force of this Agreement, as well as investments made or acquired thereafter;

cultural industries means persons engaged in any of the following activities:

- (i) the publication, distribution, or sale of books, magazines, periodicals or newspapers in print or machine readable form but not including the sole activity of printing or typesetting any of the foregoing;
- (ii) the production, distribution, sale or exhibition of film or video recordings;
- (iii) the production, distribution, sale or exhibition of audio or video music recordings;
- (iv) the publication, distribution, sale or exhibition of music in print or machine readable form; or
- (v) radio communications in which the transmissions are intended for direct reception by the general public, and all radio, television or cable broadcasting undertakings and all satellite programming and broadcast network services

days means calendar days, including weekends and holidays;

designate means to establish, designate or authorize, or to expand the scope of a monopoly to cover an additional good or service after the date of entry into force of the Agreement;

disputing investor means an investor that makes a claim under Section C;

disputing Party means a Party against which a claim is made under Section C;

disputing party means the disputing investor or the disputing Party;

enterprise means:

- (i) any entity constituted or organized under applicable law, whether or not for profit, whether privately-owned or governmentally-owned, including any corporation, trust, partnership, sole proprietorship, joint venture or other association; and
- (ii) a branch of any such entity;

enterprise of a Party means an enterprise constituted or organized under the law of a Party, and a branch located in the territory of a Party and carrying out business activities there;

equity or debt securities includes voting and non-voting shares, bonds, convertible debentures, stock options and warrants;

existing means in effect on the date of entry into force of this Agreement;

financial institution means any financial intermediary or other enterprise that is authorized to do business and regulated or supervised as a financial institution under the law of the Party in whose territory it is located;

financial service means a service of a financial nature, including insurance, and a service incidental or auxiliary to a service of a financial nature;

government monopoly means a monopoly that is owned, or controlled through ownership interests, by the national government of a Party or by another such monopoly;

ICSID means the International Centre for Settlement of Investment Disputes;

ICSID Convention means the *Convention on the Settlement of Investment Disputes between States and Nationals of other States*, done at Washington, March 18, 1965;

intellectual property rights means copyright and related rights, trademark rights, rights in geographical indications, rights in industrial designs, patent rights, rights in layout designs of integrated circuits, rights in relation to protection of undisclosed information, and plant breeders' rights.

Inter-American Convention means the *Inter-American Convention on International Commercial Arbitration*, done at Panama, January 30, 1975;

investment means:

- (I) an enterprise;
- (II) an equity security of an enterprise;

- (III) a debt security of an enterprise
 - (i) where the enterprise is an affiliate of the investor, or
 - (ii) where the original maturity of the debt security is at least three years,but does not include a debt security, regardless of original maturity, of a state enterprise;
- (IV) a loan to an enterprise
 - (i) where the enterprise is an affiliate of the investor, or
 - (ii) where the original maturity of the loan is at least three years,but does not include a loan, regardless of original maturity, to a state enterprise;
- (V)
 - (i) notwithstanding subparagraphs (III) and (IV) above, a loan to or debt security issued by a financial institution is an investment only where the loan or debt security is treated as regulatory capital by the Party in whose territory the financial institution is located, and
 - (ii) a loan granted by or debt security owned by a financial institution, other than a loan to or debt security of a financial institution referred to in (i), is not an investment;for greater certainty:
 - (iii) a loan to, or debt security issued by, a Party or a state enterprise thereof is not an investment; and
 - (iv) a loan granted by or debt security owned by a cross-border financial service provider, other than a loan to or debt security issued by a financial institution, is an investment if such loan or debt security meets the criteria for investments set out elsewhere in this Article;
- (VI) an interest in an enterprise that entitles the owner to share in income or profits of the enterprise;
- (VII) an interest in an enterprise that entitles the owner to share in the assets of that enterprise on dissolution, other than a debt security or a loan excluded from subparagraphs (III) (IV) or (V),
- (VIII) real estate or other property, tangible or intangible, acquired in the expectation or used for the purpose of economic benefit or other business purposes; and
- (IX) interests arising from the commitment of capital or other resources in the territory of a Party to economic activity in such territory, such as under
 - (i) contracts involving the presence of an investor's property in the territory of the Party, including turnkey or construction contracts, or concessions, or
 - (ii) contracts where remuneration depends substantially on the production, revenues or profits of an enterprise;