



Mexico No. 1(2006)

# Agreement

between the Government of the United Kingdom of Great Britain and  
Northern Ireland and the Government of the United Mexican States

## for the Promotion and Reciprocal Protection of Investments

Vienna, 12 May 2006

[The Agreement is not in force]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
June 2006*

Cm 6860

£6.00

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**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED  
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND  
AND THE GOVERNMENT OF THE UNITED MEXICAN STATES  
FOR THE PROMOTION AND RECIPROCAL PROTECTION OF  
INVESTMENTS**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United Mexican States, hereinafter referred to as the “Contracting Parties”;

Desiring to create favourable conditions for greater investment by investors of one Contracting Party in the territory of the other Contracting Party;

Recognising the reciprocal protection of investments under this agreement would foster individual business initiative and will increase prosperity in both States;

Have agreed as follows:

**CHAPTER I: GENERAL PROVISIONS**

**ARTICLE 1**

**Definitions**

For the purposes of this Agreement:

“enterprise” means any entity constituted or organised under applicable law, including any corporation, trust, partnership, sole proprietorship, joint venture or other association.

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

“investment” means an asset acquired in accordance with the laws and regulations of the Contracting Party in whose territory the investment is made and in particular includes:

- (a) an enterprise;
- (b) an equity security of an enterprise;
- (c) 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 Contracting Party or of a State enterprise;

- (d) 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 Contracting Party or to a State enterprise;

- (e) an interest in an enterprise that entitles the owner to share in income or profits of the enterprise;

- (f) 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 subparagraph (c) or (d);

- (g) real estate or other property, tangible or intangible, including intellectual property rights, acquired in the expectation or used for the purpose of economic benefit or other business purposes; and

- (h) interests arising from the commitment of capital or other resources in the territory of a Contracting Party to economic activity in such territory, such as under

- (i) contracts involving the presence of an investor's property in the territory of a Contracting Party, including turnkey or construction contracts, or concessions, or

- (ii) contracts where remuneration depends substantially on the production, revenues or profits of an enterprise;

but investment does not mean,

- (i) claims to money that arise solely from

- (i) commercial contracts for the sale of goods or services by a national or enterprise in the territory of a Contracting Party to an enterprise in the territory of the other Contracting Party, or

- (ii) the extension of credit in connection with a commercial transaction, such as trade financing, other than a loan covered by subparagraph (d); or
- (j) any other claims to money, that do not involve the kinds of interests set out in subparagraphs (a) through (h).

A change in the form in which assets are invested does not affect their character as investments as long as they are covered by this definition.

“investment support” means any debt or equity investment, any investment guarantee and any investment insurance or reinsurance provided by the issuer in connection with projects or activities in the territory of a Contracting Party.

“investor” means:

- (a) a natural person having the nationality of a Contracting Party in accordance with its applicable laws, or
- (b) an enterprise which is either constituted or otherwise organised under the law of a Contracting Party, and is engaged in business operations in the territory of that Contracting Party

who has made an investment in the territory of the other Contracting Party.

“issuer” means a designated agency of a Contracting Party, or any successor agency, and any agent of either, which provides investment support, and includes, in relation to the United Kingdom, the Export Credit Guarantee Department, but otherwise does not refer to the Government of any of the Contracting Parties.

“returns” means the amounts yielded by an investment and in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and fees.

“State enterprise” means an enterprise that is owned, or controlled through ownership interests, by a Contracting Party.

“territory” means:

- (a) in respect of the United Kingdom: Great Britain and Northern Ireland, including the territorial sea and any maritime area situated beyond the territorial sea of the United Kingdom which has been or might in the future be designated under the national law of the United Kingdom in accordance with international law as an area within which the United Kingdom may exercise rights with regard to the sea-bed and subsoil and the natural resources and any territory to which this Agreement is extended in accordance with the provisions of Article 25 of this Agreement;

- (b) in respect of the United Mexican States, the territory of the United Mexican States, including the maritime areas adjacent to its coast, the territorial sea, the exclusive economic zone and the continental shelf, to the extent to which the United Mexican States may exercise sovereign rights or jurisdiction in those areas according to international law.

## ARTICLE 2

### **Admission of Investments**

1. Each Contracting Party shall admit investments in accordance with its laws and regulations.
2. With the aim to significantly increase bilateral investment flows, the Contracting Parties may elaborate investment promotion documents and may provide each other with detailed information regarding:
  - (a) investment opportunities;
  - (b) the laws, regulations or provisions that, directly or indirectly, affect foreign investment including, among others, currency exchange and fiscal regimes; and
  - (c) foreign investment statistics in their respective territories.

## CHAPTER II: PROTECTION OF INVESTMENT

### ARTICLE 3

#### **Minimum Standard of Treatment in Accordance with Customary International Law**

1. Investments of investors of each Contracting Party shall at all times be accorded treatment in accordance with customary international law, including fair and equitable treatment and full protection and security, in the territory of the other Contracting Party.
2. The Contracting Parties do not intend the obligations in paragraph 1 above in respect of “fair and equitable treatment” and “full protection and security” to require treatment in addition to or beyond that which is required by the customary international law minimum standard of treatment of aliens. A determination that there has been a breach of another provision of this Agreement or of a separate international agreement, does not, in and of itself, establish that there has been a breach of the provisions of this Article.

## ARTICLE 4

### **National Treatment and Most-Favoured-Nation Treatment**

1. Neither Contracting Party shall in its territory subject investments or returns of investors of the other Contracting Party to treatment less favourable than that which it accords, in like circumstances, to investments or returns of its own investors or to investments or returns of investors of any third State.

2. Neither Contracting Party shall in its territory subject investors of the other Contracting Party, as regards the management, maintenance, use, enjoyment or disposal of their investments, to treatment less favourable than that which it accords, in like circumstances, to its own investors or to investors of any third State.

## ARTICLE 5

### **Exceptions to National Treatment and Most-Favoured-Nation Treatment**

Article 4 of this Agreement shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from:

- (a) any existing or future customs union, common market free trade area or similar international agreement to which either of the Contracting Parties is or may become a party, or
- (b) any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation. Nothing in this Agreement shall affect the rights and obligations of either Contracting Party derived from any international agreement or arrangement relating wholly or mainly to taxation to which either Contracting Party is a party. In the event of any inconsistency between the provisions of this Agreement and any such agreement or arrangement, the provisions of the latter shall prevail.

## ARTICLE 6

### **Compensation for Losses**

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, insurrection or riot in the territory of the latter Contracting Party shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, no less

favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State.

## ARTICLE 7

### **Expropriation**

1. Investments of investors of either Contracting Party shall not be nationalised or expropriated, either directly or indirectly through measures having effect equivalent to nationalisation or expropriation (“expropriation”) in the territory of the other Contracting Party except for a public purpose, on a non-discriminatory basis, in accordance with due process of law and against compensation.

2. Such compensation shall amount to the fair market value of the expropriated investment immediately before the expropriation or before the subsequent expropriation became public knowledge; shall include interest at a normal commercial rate until the date of payment; shall be made without delay, be effectively realisable and be freely transferable. Valuation criteria shall include the going concern value, asset value including declared tax value of tangible property, and other criteria, as appropriate, to determine the fair market value.

3. The investor affected shall have a right, under the law of the Contracting Party making the expropriation, to prompt review, by a judicial or other independent authority of that Contracting Party, of his or its case and of the valuation of his or its investment in accordance with the principles set out in this Article.

## ARTICLE 8

### **Transfers**

1. Each Contracting Party shall in respect of investments guarantee the right of investors of the other Contracting Party the unrestricted transfer of their investments and returns. Transfers shall be effected without delay, in the convertible currency in which the capital was originally invested or in any other convertible currency agreed by the investor and the Contracting Party concerned. Unless otherwise agreed by the investor, transfers shall be made at the rate of exchange applicable on the date of transfer pursuant to the exchange regulations in force.

2. Such transfers shall include:

- (a) profits, dividends, interests, capital gains, royalty payments, management fees, technical assistance and other fees and amounts derived from the investment;



- (b) proceeds from the sale of all or any part of the investment, or from the partial or complete liquidation of the investment;
- (c) payments made under a contract entered into by the investor or its investment, including payments made pursuant to a loan agreement;
- (d) payments arising from the compensation for expropriation;
- (e) payments pursuant to the application of provisions relating to the settlement of disputes; and
- (f) payments arising from the compensation for losses under Article 6 of this Agreement.

3. Notwithstanding paragraphs 1 and 2 above, a Contracting Party may prevent a transfer through the equitable, non-discriminatory and good faith application of its laws in the following cases:

- (a) bankruptcy, insolvency, or the protection of the rights of creditors;
- (b) issuing, trading or dealing in securities;
- (c) criminal or administrative violations;
- (d) reports of transfers of currency or other monetary instruments; or
- (e) ensuring the satisfaction of judgments in adjudicatory proceedings.

4. In case of a serious balance of payments difficulty or of a threat thereof, a Contracting Party may temporarily restrict transfers provided that such a Contracting Party implements measures or a programme in accordance with international standards. These restrictions should be imposed on an equitable, non-discriminatory and in good faith basis.

## ARTICLE 9

### **Investment Support**

1. An issuer may provide to investors of any Contracting Party, investment support in connection with projects or activities in the territory of the other Contracting Party. Investors of a Contracting Party in the territory of the other Contracting Party may enter into agreements for investment support with the issuer. The issuer will undertake investment support only in relation to projects and activities allowed by the law of the other Contracting Party existing at the time the investment support is undertaken.

2. If the issuer pursuant to any such investment support makes a payment to any person or entity, or exercises any rights as a creditor, subrogee or assignee, in connection with that payment or that investment support, the other Contracting Party shall recognise the transfer to, or acquisition by, the issuer of those rights and of any cash, accounts, credits, instruments or other assets in connection with such payment or the exercise of such rights, as well as the succession of the issuer to any right, title, claim, privilege or cause of action, existing, or which may arise, in connection with the investment to which that investment support relates.

3. With respect to any interests transferred to or acquired by the issuer or any interests to which the issuer succeeds, under this Article, in its own right or otherwise by contract or operation of law, the issuer shall assert no greater rights than those of the person or entity from whom such interests were received.

4. To the extent that the laws of a Contracting Party partially or wholly restrict ownership or acquisition by, or transfer or succession to, the issuer of any interests as described in paragraph 3 above, the Contracting Party shall permit the issuer to make appropriate arrangements to transfer such assets, interests or rights to a person or entity permitted to own them under the laws of that Contracting Party.

### CHAPTER III: DISPUTE SETTLEMENT

#### SECTION ONE: SETTLEMENT OF DISPUTES BETWEEN A CONTRACTING PARTY AND AN INVESTOR OF THE OTHER CONTRACTING PARTY

##### ARTICLE 10

##### **Notice of Intent and Consultation**

1. An investor that has a dispute with a Contracting Party should first attempt to settle a claim through consultation or negotiation.

2. The investor shall deliver to the Contracting Party written notice of its intention to submit a claim to arbitration at least 90 days before the claim is submitted. Such notice shall specify:

- (a) the name and address of the disputing investor and, where a claim is made on behalf of an enterprise according to Article 11 of this Agreement, the name and address of the enterprise;
- (b) the provisions of this Agreement alleged to have been breached;
- (c) the factual and legal basis for the claim; and
- (d) the remedy sought and the amount of damages claimed.

## ARTICLE 11

### **Submission of a Claim to Arbitration**

1. An investor of a Contracting Party may submit to arbitration a claim that the other Contracting Party has breached an obligation set forth in Chapter II of this Agreement, and that the investor has incurred loss or damages by reason of, or as a consequence of such breach.
2. An investor of a Contracting Party, on behalf of an enterprise legally incorporated or constituted pursuant to the laws of the other Contracting Party, that is a legal person such investor owns or controls, may submit to arbitration a claim that the other Contracting Party has breached an obligation set forth in Chapter II of this Agreement, and that the enterprise has incurred loss or damages by reason of or as a consequence of that breach.
3. An investor may not submit the dispute for settlement by arbitration pursuant to this Article unless six months have elapsed since the events giving rise to the claim took place.
4. A disputing investor may submit the claim to arbitration under:
  - (a) the Convention on the Settlement of Investment Disputes between States and Nationals of other States (“ICSID Convention”)<sup>1</sup>, provided that both the disputing Contracting Party and the Contracting Party of the investor are parties to the ICSID Convention;
  - (b) the Additional Facility Rules, of the International Centre for Settlement of Investment Disputes (“ICSID”), provided that either the disputing Contracting Party or the Contracting Party of the investor, but not both, is a party to the ICSID Convention;
  - (c) the Permanent Court of Arbitration Optional Rules for Arbitrating Disputes between two Parties of which only one is a State (“PCA Rules of Arbitration”); or
  - (d) any other arbitration rules, if the disputing parties so agree.
5. A disputing investor may submit a claim to arbitration, pursuant to paragraph 1 above, only if:
  - (a) the investor consents to arbitration in accordance with the procedures set forth in this Agreement; and
  - (b) the investor and, where the claim is for loss or damage to an interest in an enterprise of the other Contracting Party that is a legal person that

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<sup>1</sup> Treaty Series No. 25 (1967) Cmnd 3255

the investor owns or controls, the enterprise waive their right to initiate or continue before any administrative tribunal or court under the laws of a Contracting Party any proceedings with respect to the measure of the disputing Contracting Party that is alleged to be a breach of Chapter II of this Agreement, or any other dispute settlement procedure related thereto, except for proceedings for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court, under the law of the disputing Contracting Party.

6. A disputing investor may submit a claim to arbitration on behalf of an enterprise of the other Contracting Party that is a legal person that the investor owns or controls, pursuant to paragraph 2 above, only if both the investor and the enterprise:

- (a) consent to arbitration in accordance with the procedures set forth in this Agreement; and
- (b) waive their right to initiate or continue before any administrative tribunal or court under the laws of a Contracting Party any proceedings with respect to the measure of the disputing Contracting Party that is alleged to be a breach under Chapter II of this Agreement, or any other dispute settlement procedure related thereto, except for proceedings for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court, under the laws of the disputing Contracting Party.

7. The consent and waiver referred to in this Article shall be in writing, delivered to the disputing Contracting Party and included in the submission of a claim to arbitration.

8. The applicable arbitration rules shall govern the arbitration except to the extent modified by this Section.

9. A dispute may be submitted to arbitration provided that the investor has delivered to the disputing Contracting Party its notice of intent referred to in Article 10 of this Agreement, at least 90 days in advance, but not later than three years from the date that either the investor or the enterprise of the other Contracting Party that is a legal person that the investor owns or controls, first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the investor or the enterprise has incurred loss or damage.

## ARTICLE 12

### **Contracting Party Consent**

1. Each Contracting Party hereby gives its unconditional consent to the submission of a dispute to international arbitration.
2. The consent under paragraph 1 above and the submission of a claim to arbitration by the disputing investor shall satisfy the requirements of:
  - (a) Chapter II of the ICSID Convention (Jurisdiction of the Centre) and the ICSID Additional Facility Rules for written consent of the disputing parties; and
  - (b) Article II of the United Nations Convention on the Recognition and the Enforcement of Foreign Arbitral Awards (“New York Convention”)<sup>1</sup> for an “agreement in writing”.

## ARTICLE 13

### **Establishment of the Arbitral Tribunal**

1. Unless the disputing parties agree otherwise, the arbitral tribunal shall be composed of three arbitrators. Each disputing party shall appoint one arbitrator and the disputing parties shall agree upon a third arbitrator, who shall act as the chairman of the arbitral tribunal.
2. If an arbitral tribunal has not been established within 90 days from the date in which the claim was submitted to arbitration, either because a disputing party fails to appoint an arbitrator or because the disputing parties fail to agree upon the chairman, the Secretary-General of ICSID, upon request of any of the disputing parties, shall be asked to appoint, at his own discretion, the arbitrator or arbitrators not yet appointed. The Secretary-General of ICSID, when appointing the chairman, shall ensure that the chairman is not a national of a Contracting Party.

## ARTICLE 14

### **Consolidation**

1. A tribunal under this Article shall be established under the PCA Rules of Arbitration and shall conduct its proceedings in accordance with those Rules, except as modified by this Section.

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<sup>1</sup> Treaty Series No. 20 (1979) Cmnd 6419

2. Where a tribunal established under this Article is satisfied that claims submitted to arbitration under Article 11 of this Agreement have a question of law or fact in common, the tribunal may, in the interests of fair and efficient resolution of the claims, and after hearing the disputing parties, by order:

- (a) assume jurisdiction over, and hear and determine together, all or part of the claims; or
- (b) assume jurisdiction over, and hear and determine one or more of the claims, the determination of which it believes would assist in the resolution of the others.

3. A disputing party that seeks an order under paragraph 2 above shall request the Secretary-General of ICSID to establish a tribunal and shall specify in the request:

- (a) the name of the disputing Contracting Party or disputing investors against which the order is sought;
- (b) the nature of the order sought; and
- (c) the grounds on which the order is sought.

4. The disputing party shall deliver to the disputing Contracting Party or disputing investors against which the order is sought a copy of the request.

5. Within 60 days of receipt of the request, the Secretary-General of ICSID, shall establish a tribunal comprised of three arbitrators. One shall be a national of the disputing Contracting Party, and one shall be a national of the Contracting Party of the disputing investors; the third, the presiding arbitrator, shall be a national of a non-Contracting Party. Nothing in this paragraph shall prevent the disputing investors and the disputing Contracting Party from appointing the members of the tribunal by a special agreement.

6. Where a disputing investor has submitted a claim to arbitration under Article 11 of this Agreement and has not been named in a request made under paragraph 3 above, a disputing investor or the disputing Contracting Party, as appropriate, may make a written request to the tribunal that the first disputing investor be included in an order made under paragraph 2 above, and shall specify in the request:

- (a) the name and address of the disputing investor;
- (b) the nature of the order sought; and
- (c) the grounds on which the order is sought.

7. A disputing party referred to in paragraph 6 above shall deliver a copy of its request to the disputing parties named in a request made under paragraph 3 above.

8. A tribunal established under Article 11 of this Agreement shall not have jurisdiction to decide a claim, or a part of a claim, over which a tribunal established under this Article has assumed jurisdiction.

9. On the application of a disputing party, a tribunal established under this Article, pending its decision under paragraph 2 above, may order that the proceedings of a tribunal established under Article 11 of this Agreement be stayed, unless the latter tribunal has already adjourned its proceedings.

## ARTICLE 15

### **Place of Arbitration**

Any arbitration under this Section shall, upon request of any disputing party, be held in a State that is party to the New York Convention. For the purposes of Article 1 of the New York Convention, claims submitted to arbitration under this Section shall be considered to have arisen out of a commercial relationship or transaction.

## ARTICLE 16

### **Indemnification**

In an arbitration under this Section, a disputing Contracting Party shall not assert, as a defence, counterclaim, right of setoff or otherwise, that the disputing investor has received or will receive, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of its alleged damages.

## ARTICLE 17

### **Applicable Law**

1. A tribunal established in accordance with this Section shall decide the submitted issues in dispute in accordance with this Agreement and the applicable rules and principles of international law.

2. An interpretation jointly formulated and agreed upon by the Contracting Parties with regard to any provision of this Agreement shall be binding on any tribunal established under this section.

## ARTICLE 18

### **Final Award and Enforcement of an Award**

1. Where an arbitral tribunal makes a final award against a Contracting Party, the tribunal may award, separately or in combination, only:

- (a) monetary damages and any applicable interest; and
- (b) restitution of property, in which case the award shall provide that the disputing Contracting Party may pay monetary damages and any applicable interest in lieu of restitution.

A tribunal may also award costs in accordance with the applicable arbitration rules.

2. Subject to paragraph 1 above, where a claim is submitted to arbitration on behalf of an enterprise:

- (a) an award granting restitution of property shall provide that such restitution is to be made only to the enterprise;
- (b) an award granting monetary damages and any applicable interests shall provide that the total amount is to be paid only to the enterprise; and
- (c) the award shall provide that it is made without prejudice to any right that any person has or may have, with respect to the remedy granted, under the applicable domestic law.

3. An award made by a tribunal shall have no binding force except between the disputing parties and in respect of the particular case.

4. The arbitral award shall be public, unless the disputing parties agree otherwise.

5. A tribunal may not award punitive damages.

6. A disputing party may seek enforcement of an arbitration award under the ICSID Convention or the New York Convention, if both Contracting Parties are contracting parties to these treaties.

7. Save as may be otherwise provided pursuant to any applicable proceedings to annul, revise or set aside an award, a disputing party shall abide by and comply with an award without delay.

8. A Contracting Party may not initiate proceedings in accordance with Section Two of this Chapter unless the other Contracting Party fails to abide by or comply with a final award rendered in a dispute that an investor may have submitted pursuant to this Section.



## ARTICLE 19

### **Interim Measures of Protection**

A tribunal may order an interim measure of protection to preserve the rights of a disputing party, or to ensure that the tribunal's jurisdiction is made fully effective, including an order to preserve evidence in the possession or control of a disputing party or to protect the tribunal's jurisdiction. A tribunal may not order attachment or enjoin the application of the measure alleged to constitute a breach referred to in Article 11 of this Agreement. For purposes of this paragraph, an order includes a recommendation.

## ARTICLE 20

### **Expert Report**

Without prejudice to the appointment of other kinds of experts where authorised by the applicable arbitration rules, a tribunal, at the request of a disputing party or, unless the disputing parties disapprove, on its own initiative, may appoint one or more experts to report to it in writing on any factual issue concerning environmental, health, safety or other scientific matters raised by a disputing party in a proceeding, subject to such terms and conditions as the disputing parties may agree.

## SECTION TWO: SETTLEMENT OF DISPUTES BETWEEN THE CONTRACTING PARTIES

## ARTICLE 21

### **Settlement of Disputes Between the Contracting Parties**

1. The Contracting Parties shall endeavour to resolve any dispute between them concerning the interpretation or application of this Agreement, by means of prompt and friendly consultations and negotiations.
2. If a dispute is not resolved by such means within four months from the date on which a Contracting Party requested such negotiations or consultations, the dispute shall be submitted, at the request of either Contracting Party, to an arbitral tribunal established in accordance with the provisions of this Article or, by agreement of the Contracting Parties, to any other international tribunal.
3. The arbitral tribunal shall be composed of three arbitrators appointed as follows:
  - (a) each Contracting Party shall appoint one arbitrator; and

- (b) the arbitrators appointed by the Contracting Parties, within the 60 days following the date on which the second arbitrator was appointed, shall select by mutual agreement a third arbitrator who on approval by the Contracting Parties shall be appointed as chairman for the tribunal. The chairman shall be a national or a permanent resident of a third country which has diplomatic relations with the Contracting Parties.

4. A Contracting Party may submit a dispute to an arbitral tribunal by written notice delivered through diplomatic channels to the other Contracting Party. Such notice shall contain a statement setting out the legal and factual grounds of the claim, and the name of the arbitrator appointed by the Contracting Party initiating the proceedings. Within 60 days of delivering the notice, the respondent Contracting Party shall notify the other Contracting Party of the name of the arbitrator appointed by it.

5. If within the time limits provided for in paragraph 3(b) and paragraph 4 above, the required appointments have not been made or the required approvals have not been given, either Contracting Party may request the President of the International Court of Justice to make the necessary appointment. If the President is a national or permanent resident of either Contracting Party or is otherwise unable to act, the Vice-President shall be invited to make the referred appointment. If the Vice-President is a national or permanent resident of either Contracting Party or is unable to act, the Member of the International Court of Justice next in seniority who is not a national or permanent resident of either Contracting Party shall be invited to make the appointment.

6. In case any arbitrator appointed as provided for in this Article resigns or becomes unable to act, a successor arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator, and the successor shall have all the powers and duties of the original arbitrator.

7. Once convened by the chairman, the arbitral tribunal shall determine the place of arbitration and the commencement of the arbitral process.

8. The arbitral tribunal shall decide all questions relating to its competence and shall, subject to any agreement between the Contracting Parties, determine its own procedure.

9. The arbitral tribunal shall reach its award by a majority of votes. The arbitral tribunal shall decide the dispute submitted to it in accordance with this Agreement and the applicable rules and principles of international law.

10. Each Contracting Party shall bear the costs of its appointed arbitrator and the costs of any legal representation in the proceedings. The costs of the chairman of the arbitral tribunal and other expenses associated with the conduct of the arbitration shall be borne in equal parts by the Contracting Parties. As part of its award, the arbitral tribunal may decide, however, that a higher proportion of costs shall be borne by one of the Contracting Parties.

11. The arbitral tribunal shall afford to the Contracting Parties a fair hearing. Any award shall be issued in writing and shall contain the findings of fact and law. A signed award shall be delivered to each Contracting Party. The arbitral award shall be final and binding on the Contracting Parties.

## CHAPTER IV: FINAL PROVISIONS

### ARTICLE 22

#### **Application of the Agreement**

1. The term investment includes all investments, whether made before or after the date of entry into force of this Agreement.
2. The provisions of this Agreement shall not apply to claims arising out of events which occurred, or to claims which had been settled, prior to its entry into force.

### ARTICLE 23

#### **Consultations**

Either Contracting Party may at any time propose consultations on any matter relating to this Agreement. These consultations shall be held at a place and at a time agreed upon by the Contracting Parties.

### ARTICLE 24

#### **Application of other Rules**

If the provisions of law of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to the present Agreement contain rules, whether general or specific, entitling investments by investors of the other Contracting Party to a treatment more favourable than is provided for by this Agreement, such rules shall to the extent that they are more favourable prevail over this Agreement.

### ARTICLE 25

#### **Territorial Extension**

At the time of entry into force of this Agreement, or at any time thereafter, the provisions of this Agreement may be extended to such territories for whose

international relations the Government of the United Kingdom are responsible as may be agreed between the Contracting Parties through an Exchange of Notes.

#### ARTICLE 26

##### **Entry into Force**

1. Each Contracting Party shall notify the other in writing of the completion of the constitutional formalities for the approval and entry into force of this Agreement.
2. This Agreement shall enter into force 30 days after the date of the latter of the two notifications referred to in paragraph 1 above.

#### ARTICLE 27

##### **Duration and Termination**

This Agreement shall remain in force for a period of 10 years. Thereafter it shall continue in force until the expiration of 12 months from the date on which either Contracting Party shall have given written notice of termination to the other. The provisions shall continue in effect with respect to investments for a period of 15 years after the date of termination and without prejudice to the application thereafter of the rules of general international law.

In witness whereof the undersigned duly authorised thereto by their respective Governments, have signed this Agreement.

DONE at VIENNA, on the 12th day of May 2006, in the English and Spanish languages, each text being equally authentic.

For the Government of  
the United Kingdom  
of Great Britain and  
Northern Ireland:

**DAVID TRIESMAN**

For the Government of  
the United Mexican States:

**SGA**

**Annex to Article 11 (Applicable Only in the Case of Mexico)**

If the investor, or an enterprise that an investor owns or controls, submits the dispute referred to in Article 11(1) or 11(2) of this Agreement to the Contracting Party's competent judicial or administrative courts, the same dispute may not be submitted to arbitration as provided in Section One, Chapter III of this Agreement.







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