[TRANSLATION — TRADUCTION]

AGREEMENT[1] BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE ARGENTINE REPUBLIC ON THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the French Republic and the Government of the Argentine Republic, hereinafter referred to as "the Contracting Parties",

Desiring to develop economic cooperation between the two States and to create favourable conditions for French investments in Argentina and Argentine investments in France,

Convinced that the promotion and protection of such investments are likely to stimulate transfers of capital and technology between the two countries in the interest of their economic development,

Have agreed on the following provisions:

Article 1

For the purposes of this Agreement:

1. The term "investment" shall apply to assets such as property, rights and interests of any category, and particularly but not exclusively, to:

(*a*) Movable and immovable property and all other real rights such as mortgages, preferences, usufructs, sureties and similar rights;

(*b*) Shares, issue premiums and other forms of participation, albeit minority or indirect, in companies constituted in the territory of either Contracting Party;

(*c*) Bonds, claims and rights to any benefit having an economic value;

(*d*) Copyrights, industrial property rights (such as patents for inventions, licences, registered trade marks, industrial models and designs), technical processes, registered trade names and goodwill;

(*e*) Concessions accorded by law or by virtue of a contract, including concessions to prospect for, cultivate, mine or develop natural resources, including those situated in the maritime zones of the Contracting Parties;

it being understood that the said assets shall be or shall have been invested and, in accordance with the provisions of this Agreement, the related provisions laid down in conformity with the legislation of the Contracting Party in whose territory or maritime zone the investment is made, before or after the entry into force of this Agreement.

Any change in the form in which assets are invested shall not affect their status as an investment, provided that the change is not contrary to the legislation of the Contracting Party in whose territory or maritime zone the investment is made.

[1] Came into force on 3 March 1993, i.e., one month after the date of receipt of the last of the notifications by which the Parties had informed each other of the completion of the required internal procedures, in accordance with article 13.

2. The term "investor" shall apply to:

(*a*) Any individual who is considered a national under the legislation of either Contracting Party;

(*b*) Any body corporate constituted in the territory of one Contracting Party in accordance with that Party's legislation and having its registered office there;

(*c*) Any body corporate effectively controlled, directly or indirectly, by nationals of one Contracting Party, or by bodies corporate having their registered office in the territory of one Contracting Party and constituted in accordance with that Party's legislation.

3. The term "income" shall mean all the amounts yielded by an investment, such as profits, royalties or interest, during a given period.

Income from investment and, in the event of reinvestment, income from its reinvestment shall enjoy the same protection as the investment itself.

4. This Agreement shall apply to the territory of each of the Contracting Parties and to the maritime zone of each of the Contracting Parties, hereinafter defined as the economic zone and the continental shelf extending beyond the limit of the territorial waters of each of the Contracting Parties and over which they have, in accordance with international law, sovereign rights and jurisdiction for the purpose of prospecting for, exploiting and conserving natural resources.

Article 2

Each Contracting Party shall permit and promote, in accordance with its legislation and with the provisions of this Agreement, investments made in its territory and maritime zone by investors of the other Party.

Article 3

Each Contracting Party shall undertake to accord in its territory and maritime zone just and equitable treatment, in accordance with the principles of international law, to the investments of investors of the other Party and to ensure that the exercise of the right so granted is not impeded either *de jure* or *de facto*.

Article 4

Each Contracting Party shall accord in its territory and maritime zone to investors of the other Party, in respect of their investments and activities in connection with such investments, treatment that is no less favourable than that accorded to its own investors or the treatment accorded to investors of the most-favoured nation, if the latter is more advantageous. For this purpose, nationals of either Contracting Party who are authorized to work in the territory and maritime zone of the other Contracting Party shall be entitled to enjoy the appropriate facilities for the exercise of their professional activities.

Such treatment shall not include privileges which may be extended by a Contracting Party to investors of a third State by virtue of its participation in or association with a free trade area, customs union, common market or any other form of regional economic organization.

Moreover, such treatment shall not extend to privileges accorded by a Contracting Party to investors of a third State by virtue of a convention for the avoidance of double taxation or any other convention on taxation.

Article 5

1. Investments made by investors of one Contracting Party shall be fully and completely protected and safeguarded in the territory and maritime zone of the other Contracting Party, in accordance with the principle of just and equitable treatment mentioned in article 3 of this Agreement.

2. The Contracting Parties shall not take, directly or indirectly, any expropriation or nationalization measures or any other equivalent measures having a similar effect of dispossession, except for reasons of public necessity and on condition that the measures are not discriminatory or contrary to a specific undertaking.

Any such dispossession measures taken shall give rise to the payment of prompt and adequate compensation the amount of which, calculated in accordance with the real value of the investments in question, shall be assessed on the basis of a normal economic situation prior to any threat of dispossession.

The amount and methods of payment of such compensation shall be determined not later than the date of dispossession. The compensation shall be readily convertible, paid without delay and freely transferable. It shall yield, up to the date of payment, interest calculated at the appropriate rate.

3. Investors of either Contracting Party whose investments have suffered losses as a result of war or any other armed conflict, revolution, state of national emergency or uprising in the territory or maritime zone of the other Contracting Party shall be accorded by the latter Party treatment which is no less favourable than that accorded to its own investors or to investors of the most-favoured nation.

Article 6

1. A Contracting Party in whose territory or maritime zone investments have been made by investors of the other Contracting Party shall accord to the said investors freedom of transfer of their assets, including:

(*a*) Profits, dividends and other current income;

(*b*) Amounts required to repay duly contracted loans which are directly associated with the realization or development of the investment and the related interest;

(*c*) Proceeds of the transfer or complete or partial liquidation of the investment, including appreciation of the invested capital;

(*d*) Compensation paid pursuant to article 5 above;

(*e*) Royalties deriving from the intangible property listed in article 1, paragraph 1, subparagraphs (*d*) and (*e*);

Nationals of each Contracting Party who have been authorized to work in the territory or maritime zone of the other Contracting Party in connection with an approved investment shall also be authorized to transfer to their country of origin an appropriate portion of their remuneration.

2. The transfers referred to in the preceding paragraphs shall be carried out without delay at the regular rate of exchange applicable on the date of transfer, in accordance with the procedures established by the legislation of the country concerned, provided that such legislation does not deny, suspend or impede the freedom of transfer.

Article 7

In so far as the regulations of one Contracting Party provide for guaranteeing external investments, a guarantee may be granted, on the basis of a case-by-case review, for investments made by investors of that Party in the territory or maritime zone of the other Party.

The guarantee referred to in the preceding paragraph shall not be available for investments made by investors of one Contracting Party in the territory or maritime zone of the other Party unless the investments have been granted prior approval by the latter Party.

Article 8

1. Any dispute relating to investments made under this Agreement between one Contracting Party and an investor of the other Contracting Party shall, as far as possible, be settled amicably between the two parties concerned.

2. If any such dispute cannot be so settled within six months of the time when a claim is made by one of the parties to the dispute, the dispute shall, at the request of the investor, be submitted:

— Either to the domestic courts of the Contracting Party involved in the dispute;

— Or to international arbitration under the conditions described in paragraph 3 below.

Once an investor has submitted the dispute to the courts of the Contracting Party concerned or to international arbitration, the choice of one or the other of these procedures is final.

3. Where recourse is had to international arbitration, the investor may choose to bring the dispute before one of the following arbitration bodies:

— The International Centre for Settlement of Investment Disputes (ICSID), established by the Convention on the Settlement of Investment Disputes between States and Nationals of other States opened for signature in Washington on 18 March 1965,[1] if both States Parties to this Agreement have already acceded to the Convention. Until such time as this requirement is met, the two Contracting Parties shall agree to submit the dispute to arbitration, in accordance with the rules of procedure of the Additional Facility of ICSID;

— An *ad hoc* arbitral tribunal established in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).

4. The ruling of the arbitral body shall be based on the provisions of this Agreement, the legislation of the Contracting Party which is a party to the dispute, including rules governing conflict of laws, the terms of any private agreements concluded on the subject of the investment, and the relevant principles of international law.

5. Arbitral decisions shall be final and binding on the parties to the dispute.

Article 9

When one Contracting Party, by virtue of a guarantee issued in respect of an investment in the territory or maritime zone of the other Party, makes payments to

[1] United Nations, *Treaty Series*, vol. 575, p. 159.

one of its investors, it shall thereby assume the rights and claims of the said national or company, in particular those described in article 8 of this Agreement.

Article 10

Investments which have been the subject of a specific undertaking by one Contracting Party vis-à-vis investors of the other Contracting Party shall be governed, without prejudice to the provisions of this Agreement, by the terms of that undertaking, in so far as its provisions are more favourable than those laid down by this Agreement.

Article 11

1. Disputes concerning the interpretation or application of this Agreement shall, as far as possible, be settled through the diplomatic channel.

2. If a dispute cannot be settled within six months of the time when a claim is made by one of the Contracting Parties, it shall be submitted, at the request of either Contracting Party, to an arbitral tribunal.

3. The said tribunal shall, in each separate case, be constituted as follows:

Each Contracting Party shall designate one member, and the two said members shall, by agreement, designate a national of a third State, who shall be appointed Chairman by the two Contracting Parties. All the members shall be appointed within two months of the date on which one Contracting Party notifies the other Contracting Party of its intention to submit the dispute to arbitration.

4. If the time-limits established in paragraph 3 above are not observed, one Contracting Party shall, in the absence of any applicable agreement, invite the Secretary-General of the United Nations to make the necessary appointments. If the Secretary-General is a national of either Contracting Party or if, for any other reason, he is prevented from exercising that function, the most senior Under-Secretary-General shall, provided that he is not a national of either Contracting Party, make the necessary appointments.

5. The arbitral tribunal shall take its decisions by majority vote. Such decisions shall be final and automatically binding on the Contracting Parties.

The tribunal shall adopt its own rules of procedure. It shall interpret the award at the request of either Contracting Party. Unless the tribunal decides otherwise, taking particular circumstances into consideration, the cost of the arbitral proceedings, including leave for the arbitrators, shall be divided equally between the Parties.

Article 12

This Agreement shall not apply to differences or disputes whose origin predates the signing of this Agreement.

Article 13

Each Party shall notify the other Party of the completion of the respective internal procedures required by it for the entry into force of this Agreement, which shall take place one month after the date of the receipt of the last such notification.

This Agreement is concluded for an initial period of 10 years. It shall remain in force thereafter unless one year's notice of denunciation is given through the diplomatic channel by either Party.

Upon the expiry of the validity of this Agreement, investments made while it was in force shall continue to be protected by its provisions for an additional period of 15 years.

DONE at Paris on 3 July 1991 in duplicate in the French and Spanish languages, both texts being equally authentic.

For the Government
of the French Republic:

[DOMINIQUE STRAUSS-KAHN]

For the Government
of the Argentine Republic:

[GUIDO DI TELLA]

[RELATED LETTER]

Paris, 3 July 1991

Sir,

I have the honour to refer to the Agreement signed today between the Government of the French Republic and the Government of the Argentine Republic on the reciprocal promotion and protection of investments and to inform you that the interpretation of this Agreement is as follows:

1. *Article 1 (2)* (a)*:*

The provisions of articles 6 and 8 shall not apply to the investments of individuals who are nationals of one Contracting Party and who, at the date of the investment in the territory of the other Contracting Party, have been resident for more than two years in the territory of that other Contracting Party, unless the investment originates from abroad.

2. *Article 1 (2)* (c)*:*

Bodies corporate desiring to benefit from this Agreement may be required to provide evidence of the said control. Acceptable evidence may include, *inter alia*, the following:

1. The status of branch of a body corporate of one of the Contracting Parties;

2. A percentage of the direct or indirect participation in the capital of a body corporate which permits effective control, in other words, more than half of the holding;

3. Direct or indirect possession of voting rights enabling the investor to have a decisive voice in the governing bodies of the body corporate or otherwise exert decisive influence in its operations.

3. *Article 3:*

(*a*) The principle of just and equitable treatment must be observed in the application of national legislation, including in the purchase and transport of raw materials, secondary materials, energy and fuel and of means of production and operation of every type, together with the sale and transport of products within the country and abroad;

(*b*) The Contracting Parties shall, within the framework of their domestic legislation, give favourable consideration to requests for entry and permission to reside, work and travel submitted by nationals of a Contracting Party, in connection with an investment in the territory of the other Contracting Party.

4. *Article 4:*

An investor may not benefit from privileges accorded for a specific purpose by the Argentine Republic to investments receiving financing on concessionary terms under bilateral agreements concluded prior to 30 June 1988 within the framework of development assistance.

I should be grateful if you would inform me of your Government's agreement with the contents of this letter.

Accept, Sir, the assurances of my highest consideration.

[GUIDO DI TELLA] [DOMINIQUE STRAUSS-KAHN]