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**Colombia
and
India**

Agreement for the promotion and protection of investments between the Republic of Colombia and the Republic of India (with annex). New Delhi, 10 November 2009

Entry into force: 2 July 2012, in accordance with article 17

Authentic texts: English, Hindi and Spanish

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et
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[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

BETWEEN

THE REPUBLIC OF COLOMBIA

AND

THE REPUBLIC OF INDIA

PREAMBLE

The Government of the Republic of Colombia and the Government of the Republic of India, hereinafter referred to as the “Contracting Parties”,

Desiring to intensify the economic cooperation to the mutual benefit of both Contracting Parties;

Intending to create favourable conditions for the investments made by investors of one Contracting Party in the territory of the other Contracting Party; and

Recognizing the need for reciprocal promotion and protection of investments with the aim to foster the economic prosperity of both Contracting Parties;

Have agreed to the following:

ARTICLE 1

Definitions

For the purposes of this Agreement,

1. Investor

- 1.1 The term “Investor” means a physical or natural person or an entity of one of the Contracting Parties that has made investments in the territory of the other Contracting Party in accordance with its national legislation.
- a. A “physical or natural person” shall mean a person who,
in the case of India is a citizen of India, and
in the case of Colombia is a national of Colombia
pursuant to their respective legislations.
- b. An entity shall mean a company, corporation, firm or association incorporated or constituted or otherwise duly established pursuant to the laws of that Contracting Party and is engaged in substantial business activities in the territory of that Contracting Party.
- 1.2 This Agreement shall not apply to investments made by natural persons who are nationals of both Contracting Parties.

2. Investment

- 2.1 Investments shall mean every type of assets that have been established or acquired by investors of a Contracting Party in the territory of the other Contracting Party in accordance with the legislation of the latter including particularly, but not exclusively, the following:
- a. Movable and immovable property, as well as other property rights such as mortgages, liens or pledges;
- b. Shares, bonds, debentures and any other similar form of participation in an entity;
- c. Rights to money or to any performance under contract having an economic value;
- d. Intellectual property rights, including, among others, copyrights and related rights, and industrial property rights such as patents, technical processes, manufacturers’ brands and trademarks, trade names, industrial designs, know-how and goodwill, in accordance with the relevant laws of the respective Contracting Party;
- e. Concessions granted by law, administrative act or contract, including concessions to explore, extract or exploit natural resources;

Investment does not include:

- i. public debt operations;
 - ii. claims to money arising solely from:
 - a. Commercial contracts for the sale of goods and services by a national or legal entity in the territory of a Contracting Party to a national or a legal entity in the territory of the other Contracting Party; or
 - b. The extension of credit in connection with a commercial transaction.
- 2.2. Any alteration in the form in which assets are invested or re-invested shall not affect their character as investments provided such a modification is in accordance with the definitions under this Article and is made in conformity with the legislation of the Contracting Party in whose territory the investment was made.
- 2.3 In accordance with paragraph 2.1 of this Article, the minimum characteristics of an investment shall be:
- a. The commitment of capital or other resources;
 - b. The expectation of gain or profit; and
 - c. The assumption of risk for the investor.

3. Returns

The term “returns” means the monetary amounts yielded by an investment, and particularly, but not exclusively, profits, dividends, interests, capital gains, royalties and fees.

4. Territory

Territory means:

- (a) with respect to Colombia, in addition to its continental territory, the archipelago of San Andrés, Providencia and Santa Catalina, the island of Malpelo, and all the other islands, islets, keys, headlands and shoals that belong to it, as well as air space and the maritime areas over which it has sovereignty or sovereign rights or jurisdiction in accordance with its domestic law and international law, including applicable international treaties;
- (b) with respect to India, the territory of the Republic of India including its territorial waters and the airspace above it and other maritime zones including the Exclusive Economic Zone and continental shelf over which the Republic of India has sovereignty, sovereign rights or exclusive jurisdiction in accordance with its laws in force, the 1982 United Nation Convention on the Law of the Sea and International Law.