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**Canada
and
Costa Rica**

Agreement between the Government of Canada and the Government of the Republic of Costa Rica for the promotion and protection of investments (with annexes). San José, 18 March 1998

Entry into force: *29 September 1999 by notification, in accordance with article XV*

Authentic texts: *English, French and Spanish*

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**Canada
et
Costa Rica**

Accord entre le Gouvernement du Canada et le Gouvernement de la République du Costa Rica pour l'encouragement et la protection des investissements (avec annexes). San José, 18 mars 1998

Entrée en vigueur : *29 septembre 1999 par notification, conformément à l'article XV*

Textes authentiques : *anglais, français et espagnol*

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[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT

BETWEEN

THE GOVERNMENT OF CANADA

AND

THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA

FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA, hereinafter referred to as the "Contracting Parties",

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

HAVE AGREED as follows:

ARTICLE I

Definitions

For the purpose of this Agreement:

- (a) "Cultural industries" means natural persons or enterprises 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) radiocommunications 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.

(b) "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;

For further certainty, "business enterprise" means any enterprise which is constituted or organized in the expectation of economic benefit or other business purposes.

(c) "existing measure" means a measure existing at the time this Agreement enters into force;

(d) "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 Contracting Party in whose territory it is located;

(e) "financial service" means a service of a financial nature, including insurance, and a service incidental or auxiliary to a service of a financial nature;

(f) "intellectual property rights" means copyright and related rights, trademark rights, patent rights, rights in layout designs of semiconductor integrated circuits, trade secret rights, plant breeders' rights, rights in geographical indications and industrial design rights;

(g) "investment" means any kind of asset owned or controlled either directly, or indirectly through an enterprise or natural person of a third State, by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the latter's laws and, in particular, though not exclusively, includes:

(i) movable and immovable property and any related property rights, such as mortgages, liens or pledges;

(ii) shares, stock, bonds and debentures or any other form of participation in an enterprise;

(iii) money, claims to money, and claims to performance under contract having a financial value;

(iv) goodwill;

(v) intellectual property rights;

(vi) rights, conferred by law or under contract, to undertake any economic and commercial activity, including any rights to search for, cultivate, extract or exploit natural resources;

but does not mean real estate or other property, tangible or intangible, not acquired in the expectation or used for the purpose of economic benefit or other business purposes.

For further certainty, investment does not mean, 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 one Contracting Party to a national or 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, where the original maturity of the loan is less than three years.

Without prejudice to subparagraph (ii) immediately above, a loan to an enterprise where the enterprise is an affiliate of the investor shall be considered an investment.

For the purpose of this Agreement, an investor shall be considered to control an investment if the investor has the power to name a majority of its directors or otherwise to legally direct the actions of the enterprise which owns the investment.

Any change in the form of an investment does not affect its character as an investment.

For greater clarity, returns shall be considered a component of investment. For the purpose of this Agreement, "returns" means all amounts yielded by an investment, as defined above, covered by this Agreement and in particular, though not exclusively, includes profits, interest, capital gains, dividends, royalties, fees or other current income.

(h) "investor" means:

- (i) any natural person possessing the citizenship of one Contracting Party who is not also a citizen of the other Contracting Party; or
- (ii) any enterprise as defined by paragraph (b) of this Article, incorporated or duly constituted in accordance with applicable laws of one Contracting Party;

who owns or controls an investment made in the territory of the other Contracting Party.

For the purpose of this Agreement, in the case of Canada, the term "natural person possessing the citizenship of one Contracting Party" shall include a natural person permanently residing in Canada in accordance with the laws of Canada, including the provisions of the Immigration Act of Canada or any statute replacing it in whole or in part (the "Act"), and without limiting the generality of the foregoing shall include a natural person who:

- (a) has been granted landing within the meaning of the Act;
- (b) has not become a Canadian citizen; and
- (c) has not ceased to be a permanent resident of Canada pursuant to the provisions of the Act.

- (i) "measure" includes any law, regulation, procedure, requirement, or practice;
- (j) "state enterprise" means an enterprise that is governmentally-owned or controlled through ownership interests by a government;

- (k) "territory" means the territory and air space of each Contracting Party, as well as those maritime areas, including the seabed and subsoil adjacent to the outer limit of the territorial sea, over which each Contracting Party exercises, in accordance with international law, sovereign rights for the purpose of exploration and exploitation of the natural resources of such areas;
- (l) "senior managerial personnel" means persons who hold positions of trust, including managers, directors, administrators, superintendents, and general chiefs of companies.

ARTICLE II

Promotion and Protection of Investments

- (1) Each Contracting Party shall encourage the creation of favourable conditions for investors of the other Contracting Party to make investments in its territory.
- (2) Each Contracting Party shall accord investments of the other Contracting Party:
 - (a) fair and equitable treatment in accordance with principles of international law; and
 - (b) full protection and security.

ARTICLE III

Establishment of Investment

- 1. Each Contracting Party shall permit establishment of a new business enterprise or acquisition of an existing business enterprise or a share of such enterprise by investors or prospective investors of the other Contracting Party on a basis no less favourable than that which, in like circumstances, it permits such acquisition or establishment by:
 - (a) investors or prospective investors of any third State;
 - (b) its own investors or prospective investors.

For the purpose of this Agreement, "prospective investor" means any natural person or enterprise of one Contracting Party who actually has carried out concrete steps toward making an investment in the territory of the other Contracting Party.

- 2. A Contracting Party may adopt or maintain exceptions to the obligation stated in paragraph (1) above, in the sectors, measures, or with respect to the matters specified in Sections I, II, III and VI of Annex I of this Agreement.