

**PROTOCOL FOR THE AMENDMENT OF CHAPTER 10  
(INVESTMENT) OF THE FREE TRADE AGREEMENT  
BETWEEN THE REPUBLIC OF CHINA (TAIWAN) AND THE  
REPUBLIC OF NICARAGUA**

The Governments of the Republic of China (Taiwan) and the  
Republic of Nicaragua

**CONSIDERING**

I

The existence of an Agreement on Investment Guarantees in force since January 8<sup>th</sup> 1993, between the Republic of China (Taiwan) and the Republic of Nicaragua which was extended for ten year since January 8<sup>th</sup> 2003.

II

That the Free Trade Agreement was signed, approved and ratified between both Parties, includes a Chapter that regulates the foreign Investment in their territories.

III

That it is necessary to have one sole legal instrument to facilitate the administration, interpretation and application of the investment rules in their territories, and also to fulfill the objectives and fluency of investment among Parties.

**THEREFORE**

The Parties agree to amend Chapter 10 (Investment) of the Free Trade Agreement signed between the Republic of China (Taiwan)

and the Republic of Nicaragua, according to Article 24.02 (Amendments), through the present Protocol

**Article 1.-** Reform paragraph 3 of Article 10.01 which will be read as follows:

“3. Notwithstanding Annex 10-F, this Chapter does not bind any Party in relation to any act or fact that took place or any situation that ceased to exist before the date of entry into force of this Agreement.”

**Article 2. -** Add Annex 10-F to Chapter 10 (Investment) which will be read as follows:

#### **“Annex 10-F**

##### **Scope and Coverage**

The Parties agree that this Agreement substitutes the Agreement of Investment Guarantees Between the Republic of China (Taiwan) and the Republic of Nicaragua (herein Bilateral Investment Agreement), signed in Managua July 29th 1992 and in force since January 8th, 1993 and extended for a ten year period on January 8th 2003 and will therefore govern the relations between the Parties regarding the promotion and protection of investments.

Henceforth, all investments made after the entry into force of this Agreement by an investor of a Party in the territory of another Party, will be governed by the provisions contained in this Chapter.

Any covered investments existing prior to the entry into

force of this Agreement will be governed at election of the investor by the corresponding Bilateral Investment Agreement or the provisions contained in this Chapter for a term of ten (10) years after the termination of the Bilateral Investment Agreement. After the expiration of said term, those investments will be governed by the provisions contained in this Chapter.

Moreover, and only for the covered investments made prior to the entry into force of this Agreement, any dispute arising with regards to them will be governed, at the election of the investor, by the corresponding Bilateral Investment Agreement or the provisions contained in this Chapter for a term of ten (10) years after the termination of the Bilateral Investment Agreement. After the expiration of said term, any dispute that arises and that is covered by the protections of this Agreement will be governed by the provisions contained in this Chapter.

For greater certainty, an investor, either on his behalf or on the behalf of an enterprise, cannot submit simultaneously or subsequently the same claim to both Investor - State Dispute Resolution Mechanisms. The election of one or the other mechanism will be definite and exclusive.

For purposes of this Annex, the term "covered investment", means an investment that was made in accordance with the provisions of Article II of the Bilateral Investment Agreements referred to above, and was

therefore a protected investment under that Agreement.”

**Article 3.** – Add the Article 10.14bis to Chapter 10 (Investment) which will be read as follows:

**“ Article 10.14bis Subrogation**

1. When one Party, or any agency, institution, statutory body or corporation designated by it, has furnished an insurance contract or any other financial guarantee against non-commercial risks, relating to any investment of its investors in the territory of the other Party, the latter shall recognize the rights of the first Party to subrogate in the rights of the investor, whenever a payment has been made by virtue of such contract or guarantee.
  
2. When one Party, or any agency, institution, statutory body or corporation designated by it, has paid its investors and by that virtue has acquired his rights and benefits, such investors may not claim such rights and benefits to the other Party, except by express authorization of the first Party. For greater certainty, the same claim can only be submitted either by the investor or the Party.”

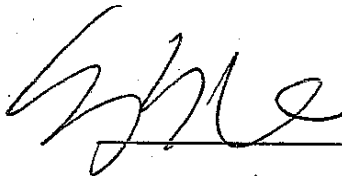
**Article 4.** - This Protocol will enter into force upon the date on which both parties notify each other that the respective legal procedures required for the entry into force of this Protocol have been completed and will constitute an integral part of this Agreement.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

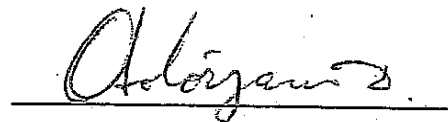
Done in duplicate, in English, Spanish and Chinese languages.

FOR THE GOVERNMENT OF THE  
REPUBLIC OF CHINA (TAIWAN)

FOR THE GOVERNMENT OF  
THE REPUBLIC OF NICARAGUA

 陳瑞隆

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