**Decree No. 905**

**THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF EL SALVADOR,**

**WHEREAS:**

I. - Article 101 of the Constitution establishes that the State shall promote Economic and Social Development by increasing production, productivity and the rational use of resources, and with the same purpose, shall promote the various sectors of production.

II. - Article 102 of our Magna Carta stipulates that the State shall encourage and protect private initiative within the conditions necessary to increase national wealth and to ensure the benefits thereof to the greatest number of inhabitants of the country.

III. - The Government of the Republic has as one of its primary objectives, the promotion of private investment initiatives as a potential trigger, so as to encourage the generation of employment and income and strengthen the creation of wealth in the national territory.

IV. - It is necessary to dictate norms that guarantee legal certainty to investors, to maintain those conditions that are determinant for their initiative and that allow the generation of sustainable economic growth, establishing mechanisms that encourage, facilitate and propitiate the growth of investments in our country.

**THEREFORE,**

in use of its Constitutional powers and at the initiative of the President of the Republic, through the Ministerios de Hacienda and Economía, respectively.

**DECREES the following:**

## LEGAL STABILITY LAW FOR INVESTMENTS

### CHAPTER I
### GENERAL PROVISIONS

**Object and Purpose**

**Art. 1.-** The purpose of this Law is to attract and promote National and Foreign Investment through a legal framework that guarantees Legal Security to the Investor, through the implementation of Legal Stability Contracts, in order to effectively contribute to the economic and social development of the country; to the growth of strategic sectors; to the efficient integration of the national economy with the international economy and to the generation of employment.

**Scope of Application**

**Art. 2.-** Natural and legal persons, national or foreign, that carry out new investment projects or expand existing ones within the national territory, that contribute to the strengthening of the

productive forces of the country and generate added value to develop the following sectors considered strategic and necessary for the growth of the country's economy, shall be subject to the application of this Law: aeronautics, agro-industry, aquaculture, electronics, energy, strategic infrastructure, logistics, health services, remote business services, tourism, telecommunications, diverse manufacturing, science and technology.

New sectors may be incorporated if they comply with the requirements, form and parameters established in this Law and its Regulations, which must be based on technical analyses to be prepared by PROESA, in coordination with the entities specialized for this purpose, which will be obliged to collaborate in the preparation of the technical analyses.

**Definitions**

**Art. 3.-** For the purposes of this Law, the following definitions shall apply:

**a)** MINEC: *Ministerio de Economía* ;

**b)** PROESA: Organismo Promotor de Exportaciones e Inversiones de El Salvador;

**c)** Contract: Legal Stability Contract;

**d)** National Treatment: Consists of ensuring the same treatment for foreign and domestic investments, with no exceptions other than those indicated by the laws in force;

**e)** Freedom to make investments: Any national or foreign natural or legal person may make investments of any kind in El Salvador, except those limited by law;

**f)** Stability: Certainty in the maintenance of the legal conditions contracted with the investor.

**g)** Temporality: Legal Stability Contracts must have a specific term;

**h)** Transparency: The evaluation and approval procedures of the Legal Stability Contracts carried out by the competent authorities must guarantee the publicity of the acts and adequate accountability.

**i)** Investment promotion: The Legal Stability Contracts will seek to promote domestic and foreign investment within the national territory for economic and social development.

**j)** Institutional Efficiency: Speed on the part of the competent authorities in the procedures, seeking the lowest possible cost for investors; and,

**k)** Good faith: Relations between the State and the investor shall be governed by honesty, trust and mutual respect.

## CHAPTER II
## RESPONSIBLE ENTITIES

**PROESA**

**Art. 4.-** Within the framework of this Law, PROESA shall have the following powers:

**a)** Prepare and provide interested investors with the application form to avail themselves of the guarantees established in this Law;

**b)** Verify compliance with the requirements set forth in Article 7 of this Law at the time of receiving the application from the interested investor, and resolve by means of a reasoned resolution, the approval or denial of the application;

**c)** Require a report and an enlightened opinion from any public institution when this is necessary due to the nature of the investment and the work to be developed;

**d)** Process the appeal for review of the resolution denying the application;

**e)** Issue an opinion on the change of investment ownership when required by MINEC;

**f)** Define the new sectors that will be subject to the application of this Law; and,

**g)** The others determined in the present Law.

***Ministerio de Economía***

**Art. 5.-** Within the framework of this Law, MINEC shall have the following powers:

**a)** Signing of the Legal Stability Contracts, subject to a favorable resolution from PROESA;

**b)** Administration, verification and monitoring of the obligations and conditions established in the Contract;

**c)** Request information from the investor regarding compliance with the obligations set forth in Article 16 of this Law;

**d)** Have access to the facilities or projects and others established in the Contract;

**e)** Keep a record, which shall be of a public nature, of the Legal Stability Contracts entered into in application of this Law; and,

**f)** The others established in this Law.

## CHAPTER III
## PROCEDURES FOR ENTERING INTO CONTRACTS

### Guarantees

**Art. 6.-** As of the subscription of the Contract, the signatory investors shall enjoy the following guarantees:

**a)** Tax stability at the national level, which is derived from the legal regime of current taxes;

**b)** Tax stability at the municipal level, which derives from the legal regime of municipal taxes in force;

**c)** Stability of tax exemptions contained in Special Laws, for the term granted by the relevant institution;

**d)** Stability of customs regimes, which are derived from the Special Laws related to duty drawback, suspensive and dischargeable;

**e)** Stability of free transfer abroad of funds from foreign investments, in accordance with the Investment Law; and,

**f)** Stability of the migratory regime related to the investor's residence, in accordance with the provisions of the Investment Law and other legislation in force.

All the guarantees described in this article shall be subject to compliance with the provisions of Art. 16 of this Law.

Indirect taxes are exempted from this tax legal stability regime.

During the term of duration of the Legal Stability Contracts, such stability may not be based on norms declared unconstitutional by the Constitutional Chamber of the Supreme Court of Justice.

**Required Information and Documentation**

**Art. 7.-** In order to avail of the guarantees established in the present Law, every investor shall submit to PROESA an application according to the form prepared by said institution, which shall contain the following information and attached documents:

**a)** General information of the natural or legal person investor, as well as their legal representative or attorney-in-fact, including notarized copies of the incorporation deed and its amendments, if any; a valid credential of the legal representative or the respective power of attorney in case of representation by an attorney-in-fact. Additionally, notarized copies of the National Identification Document (DUI) or Passport, and the Tax Identification Number (NIT) of the legal representative or attorney-in-fact, as applicable, must be submitted, along with a certified copy of the VAT registration card;

**b)** Description of the activity to be developed by the investor, accompanied by its respective investment plan, which must contain, among others:

i. Item and amount of the investment, in accordance with the term set forth in Article 14 of this Law;
ii. Number and type of jobs to be generated;
iii. Commitment to the training of human resources to be hired;
iv. The technology transfer that will take place during the execution of the activities;
v. An estimate of the economic value added;
vi. The social benefits that the activity will generate;
vii. The reasons that justify the stability of any investment, in cases of expansion; and,
viii. In general, the manner in which the objectives of this Law will be fulfilled.

**c)** Indication of the legal regime whose stability is requested, in accordance with the provisions of Article 6 of this Law;

**d)** Origin of the resources with which the investment will be made, by means of a sworn statement or any other means of proof contemplated in our legislation; and,

**e)** Tax, municipal, customs, social security and social security solvencies of the corresponding institutions. This requirement will not apply in the case of individuals or legal entities not domiciled in the country.

In cases where the documentation to be submitted originates from a country with a language other than Spanish, it must include the corresponding translation procedures, in accordance with Article 24 of the Law on Notarial Practice of Voluntary Jurisdiction and Other Proceedings. If the submitted documentation has been duly translated into Spanish abroad and includes the respective legalizations, such translation procedures will not be required. All documentation originating from abroad must include the corresponding authentications or apostilles, as applicable.

**Evaluation Criteria**

**Art. 8.-** PROESA, in order to approve or deny the application, shall evaluate the following:

**a)** That the application complies with the requirements set forth in Article 7 of this Law;

**b)** That the investments correspond to the sectors established in accordance with Article 2 of this Law;

**c)** That the objectives and eligibility criteria established in this Law are met, as the case may be; and,

**d)** In cases of expansion of an existing investment, the projected effects on the economic and social development of the country are evidently superior and justify the coverage of the investments previously made.

**Application Process**

**Art. 9.-** Once the request referred to in the previous article has been received, PROESA shall verify if it complies with all the requirements established in this Law in order to continue with the process and resolve the Contract request, for which it shall have a maximum term of 25 business days, counted from the presentation of the request, to approve or deny it by means of a reasoned resolution.

**Interinstitutional Cooperation**

**Art. 10.-** If PROESA considers it necessary to expand or verify the information submitted by the investor in the related request, it may request a report or illustrated opinion from any public institution related to the subject matter of the project and within the limits of its competencies, and these institutions shall be obliged to provide it within a maximum term of 15 working days, counted as from the date of its request, which term shall be included within the term established in Art. 9 of this Law.

Upon expiration of the term referred to in the preceding paragraph, without having received any response from the institution from which the report or opinion has been requested, the report or opinion shall be considered favorable and the procedure shall continue.

**Prevention**

**Art. 11.-** If the application referred to in this provision does not meet the legal requirements, PROESA, by means of a reasoned resolution, shall warn the applicant, so that they can correct the lack of documentation or information found in the application submitted within a period of 15 working days. This term will be counted as from the day following its notification and may be extended for the same period at the request of the interested party and with justified cause.

Upon expiration of the term referred to in the preceding paragraph or once the prevention formulated has been corrected, PROESA will continue with the processing of the corresponding application. The term to correct the prevention shall suspend the maximum term referred to in Article 9 of this Law. If the interested party does not remedy within the term the preventions made in the resolution, the same shall be denied and filed.

If the applicant is still interested in carrying out the project, a new application must be submitted.

**Appeal for Review**

**Art. 12.-** The denial resolution shall admit an appeal for review before PROESA, which must be filed by the interested party within a term not exceeding ten working days after notification. Notwithstanding the foregoing, the resolution shall not give rise to a claim for indemnification

## CHAPTER IV
## LEGAL STABILITY CONTRACT

**Subscription**

**Art. 13.-** Once the referred request has been approved, PROESA shall send the pertinent documentation to the *Ministerio de Economía*, within a maximum term of ten working days as of the issuance of the resolution, so that the respective contract may be drawn up, for which the investor shall sign a Legal Stability Contract, hereinafter "the Contract", in order to access the stability guarantees contained in the present Law, within a term not to exceed 15 working days as of the remission of the favorable resolution issued by PROESA. Said Contract must be executed by public deed and must contain at least the following:

**a)** Certification of the resolution issued by PROESA, approving the application referred to in Art. 9 of this Law;

**b)** The reference of the legal provisions of the different laws on which stability is assured;

**c)** The amount and destination of the investment;

**d)** The obligations assumed by the investors in accordance with the proposals contained in the investment plans referred to in Article 7(b) of this Law;

**e)** The commitment to allocate three percent (3%) of the total value of the investment consigned in the Contract, for the execution of local development works in the Municipality where the investment will be established, which must be disbursed during the first two years from the start of operations of the project. Likewise, the manner in which such works will be selected and executed, in coordination with the corresponding Municipal Mayor's Office and the Social Investment Fund for Local Development (FISDL), shall be defined in the Contract;

**f)** The grounds for termination of the Contract;

**g)** The deadline for its execution; and,

**h)** Term of the Contract.

The parties may agree on additional clauses according to the nature of the investment, as long as they do not contradict the present Law, its principles and the legal system in force. In no case may the granting of more guarantees than those established in Article 6 of this Law be stipulated.

If any of these conditions are omitted, the Contract shall be null and void.

Once the Contract has been signed, the investor will have a period of two years to begin executing the investment under the agreed terms. This period may be extended once, for an equal duration, at the request of the investor, provided that the request includes justifications for the extension. During this period, the investor is required to comply with all the necessary requirements to legally operate. Throughout this timeframe, the Legal Stability Contract will be deemed in force.

In cases of an expansion of an existing investment, the signing of the Legal Stability Contract will extend coverage to the entire investment of the already established production unit, but not to other investments made by the subscribing investor in other industries or economic sectors.

Once the Contract has been signed by the parties, the *Ministerio de Economía* shall forward it to the Ministerio de Hacienda and other relevant institutions within a maximum period of fifteen business days.

**Amount of the Investment to be Developed and Contract Term**

**Art. 14.-** National or foreign investors, in order to obtain the guarantees granted by the Legal Stability Contract under the framework of this Law, must make an investment in fixed assets for an amount equal to or greater than four thousand two hundred and twenty (4,220) current minimum wages of the industry sector, in dollars of the United States of America, in new projects or in the expansion of existing ones.

The term of the Contract will be directly related to the amount of the investment, as follows:

**a)** Investments in fixed assets for an equivalent amount of between 4,220 and 21,100 minimum wages in force for the industrial sector, may have a Contract with a maximum term of up to five (5) years. The investment must be executed in its entirety during the first two years, counted from the beginning of the works;

**b)** Investments in fixed assets for an amount equivalent to 21,101 and 42,200 minimum wages in force for the industrial sector, may have a Contract with a maximum term of up to ten (10) years. The investment must be executed in its entirety during the first five years, counted from the beginning of the works; and,

**c)** Investments in fixed assets for an amount equivalent to more than 42,200 minimum wages in force for the industry sector, may have a Contract with a maximum term of up to twenty (20) years. The investment must be executed in its entirety during the first ten years, counted from the beginning of the works.

The Contract will become effective as of its execution by the parties, however, the term of the same will be counted as of the date on which the investment begins to be executed.

Once a Legal Stability Contract has been signed, a benefited individual or legal entity may not enter into another Contract of the same nature derived from subsequent investments before the end of the term of the first one.

**Contract Modifications**

**Art. 15.-** In the event of approval of reforms to the national or municipal legal regime guaranteed during the term of the Contract, the investor may request the *Ministerio de Economía* to addenda to the Company shall be entitled to request the approval of the Board of Directors, when it considers that such reforms are favorable to it, for which purpose it shall submit all pertinent documentation justifying such reforms.

The *Ministerio de Economía* shall decide on the request within a maximum of ten working days after the presentation of the request. The resolution of approval of the request will state the

reforms to the national or municipal legal regime that will be considered as incorporated to the Contract, and the same must be signed within a maximum term of fifteen working days.
If no decision is made on such addendum within the established term, it shall be understood that such changes shall be applicable to the Contract as of the expiration date of such term, provided that the investor has submitted all the required documentation.

**Obligations**

**Art. 16.-** Every investor signatory of a Legal Stability Contract shall comply with the following obligations:

a) Those established in the Contract during the stipulated term and in accordance with the Investment Plan referred to in Article 7(b);

b) Register investment with the National Investment Office of the *Ministerio de Economía*.

c) To be solvent with the Ministerio de Hacienda and with the corresponding Municipality in the payment of the respective taxes.

d) To be solvent in the payment with the Instituto Salvadoreño de Seguro Social and with the different Pension Fund Administrators, of the contributions and withholdings made to its workers, corresponding to the previous month;

e) Send to the *Ministerio de Economía*, on January 31 and July 31 of each year, semi-annual reports reflecting compliance with the commitments acquired and established in the Contract;

f) Comply with the provisions of Article 5, paragraph d) of this Law;

g) Comply with the operating permits and authorizations corresponding to the type of productive activity to be carried out, within the term established for the beginning of the investment contemplated in Art. 13 of this Law; and,

h) Comply with the system of guarantees established in Article 6 of this Law; violation of this system will give rise, after analysis by PROESA, to request the termination of the Legal Stability Contract regulated by this Law.

## CHAPTER VI
## FINAL PROVISIONS

**Early Termination of Contract**

**Art. 17.-** The Legal Stability Contract shall be terminated for the following causes:

a) By resignation of the investor, communicated in writing to the *Ministerio de Economía*;

b) For breach by the investor of any of the obligations set forth in Article 16 of this Law;

c) For non-compliance in the beginning of the execution of the investment, according to the term established in Article 13 of the present Law or for its lack of registration before the *Oficina Nacional de Inversiones* of the *Ministerio de Economía* , unless force majeure or fortuitous case is proven; as well as for the withdrawal of all or part of the investment, so that it places it below the amount established in Article 14 of the present Law, as the case may be; and,

d) For the investment company being instrumentalized for the commission or concealment of crimes established in the Law Regulating Activities Related to Drugs and in the Law Against Money and Asset Laundering; as well as Crimes related to the Public Treasury, Public Health and Nature and the Environment, regulated in the Penal Code, provided that there is a firm and definitive judicial sentence, for which the competent Judge or the Attorney General's Office of the Republic must inform the *Ministerio de Economía* and PROESA.

In the cases of paragraphs b), c) and d), the termination of the Contract shall proceed after the non-compliance of the investor has been proven, by means of a procedure in which the *Ministerio de Economía* shall give a hearing for a term of ten working days to the administered party; once this has been completed, a reasoned resolution shall be issued within a term of twenty-five working days, which shall be notified to the investor. There shall be no appeal against such resolution.

If the existence of the breach is proven, the Minister of Economy shall declare the early termination of the Contract, which shall result in the forfeiture of the guarantees granted as from such termination.

**Ownership**

**Art. 18.-** Any change in the ownership of the investment that gives rise to the Contract must be approved by the *Ministerio de Economía*, prior favorable opinion of PROESA.

MINEC will grant or deny that a holder enjoys the guarantees stipulated in the Contract, with the rights and obligations corresponding to the amount of the initial investment.

**Dispute Resolution**

**Art. 19 -** Within the clauses of the Legal Stability Contract, the parties shall establish the mechanism on the basis of which disputes arising from the application, execution or interpretation of this Law or of the Contract itself shall be resolved, within the framework of Article 15 of the Investment Law.

**Exceptions Regime**

**Art. 20.-** Investments in metallic mining and financial investments shall not be included in this Law.

**Special Character**

**Art. 21.-** The provisions of this Law, by virtue of their special nature, shall prevail over any other provisions that may be contrary thereto.

**Validity**

**Art. 22.-**This Decree shall enter into force eight days after its publication in the Official Gazette.

GIVEN IN THE BLUE ROOM OF THE LEGISLATIVE PALACE: San Salvador, on the eighteenth day of December of the year two thousand fourteen.

OTHÓN SIGFRIDO REYES MORALES,
PRESIDENT.

ENRIQUE ALBERTO LUIS VALDEZ SOTO, FIRST VICE-PRESIDENT.

GUILLERMO ANTONIO GALLEGOS NAVARRETE, SECOND VICE-PRESIDENT.

JOSÉ FRANCISCO MERINO LÓPEZ, THIRD VICE-PRESIDENT.

LORENA GUADALUPE PEÑA MENDOZA, FOURTH VICE-PRESIDENT.

CARLOS ARMANDO REYES RAMOS,
FIFTH VICE PRESIDENT.

GUILLERMO FRANCISCO MATA BENNETT, FIRST SECRETARY.

MANUEL VICENTE MENJIVAR ESQUIVEL, SECOND SECRETARY.

SANDRA MARLENE SALGADO GARCÍA, SECRETARY.

JOSÉ RAFAEL MACHUCA ZELAYA, THIRD FOURTH SECRETARY.

IRMA LOURDES PALACIOS VÁSQUEZ, FIFTH SECRETARY.

ERNESTO ANTONIO ÁNGULO MILLA, SIXTH SECRETARY.

FRANCISCO JOSÉ ZABLAH SAFIE, SEVENTH SECRETARY.

JOSÉ SERAFIN ORANTES RODRIGUEZ, EIGHTH SECRETARY.

PRESIDENTIAL HOUSE: San Salvador, on the twelfth day of January of the year two thousand fifteen.

PUBLISH,

Salvador Sánchez Cerén,
President of the Republic.

Juan Ramón Carlos Enrique Cáceres Chávez,
Minister of Finance.

Tharsis Salomón López Guzmán,

Minister of Economy.

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## GLOSARY

1. **Administradora de Fondos de Pensiones**: Pension Fund Administrators
2. **Instituto Salvadoreño del Seguro Social:** Salvadoran Institute of Social Security
3. **Ministerio de Economía:** Ministry of Economy
4. **Ministerio de Hacienda:** Ministry of Finance
5. **Oficina Nacional de Inversiones**: National Investment Office
6. **Organismo Promotor de Exportaciones e Inversiones de El Salvador (PROESA):** Export and Investment Promotion Organization of El Salvador