AGREEMENT FOR THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS BETWEEN THE KINGDOM OF SPAIN AND THE REPUBLIC OF EL SALVADOR

The Kingdom of Spain and the Republic of El Salvador, hereinafter referred to as "the Contracting Parties",

Desiring to intensify economic cooperation for the reciprocal benefit of both countries,

Proposing to create favorable conditions for investments made by investors of each of the Contracting Parties in the territory of the other,

Recognizing that the promotion and protection of investments under this Agreement stimulates initiatives in this field, and

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. "Investors" shall mean:

(a) Natural or juridical persons who, in accordance with the national legislation of each of the Contracting Parties, are considered as nationals.

(b) legal persons, including companies, associations of companies, partnerships, commercial companies; branches and other organizations incorporated or, in any event, duly organized under the law of that Contracting Party and making investments in the territory of the other Contracting Party.

2. The term "investments" means all types of assets, including, but not limited to, the following:

- shares, securities, bonds and other forms of participation in companies;

- rights derived from all kinds of contributions made for the purpose of creating economic value; it expressly includes all loans granted for this purpose, whether or not capitalized;

- movable and immovable property, as well as other rights in rem such as mortgages, pledges, usufructs and similar rights;

- all kinds of rights in the field of intellectual property, expressly including patents and trademarks, as well as manufacturing licenses, know-how and goodwill;

- rights to carry out economic and commercial activities granted by law or by virtue of a contract, particularly those related to prospecting, cultivation, extraction or exploitation of natural resources.

Any change in the form in which the assets are invested or reinvested shall not affect their investment character.

3. The term "investment income" refers to the returns derived from an investment and includes, in particular, but not limited to, profits, dividends, interest, capital gains, royalties and royalties.

4. The term "territory" means the territory over which each Contracting Party has jurisdiction and sovereignty in accordance with international law and its domestic law.

Article 2. Promotion and Admission

1. Each Contracting Party shall promote the making of investments in its territory by investors of the other Contracting Party and shall admit such investments in accordance with its legal provisions.

2. This Agreement shall also apply to investments made prior to the entry into force of this Agreement by investors of one Contracting Party in accordance with the legal provisions of the other Contracting Party in the territory of the latter; except for disputes arising prior to its entry into force or relating to facts or events occurring prior to its entry into force.

3. With the intention of increasing reciprocal participation of investment, the Contracting Parties shall inform each other of investment opportunities within their territory.

Article 3. Protection

1. Each Contracting Party shall protect in its territory investments made, in accordance with its legislation, by investors of the other Contracting Party and shall not hinder, by unjustified or discriminatory measures, the management, maintenance, development, use, enjoyment, extension, sale or, as the case may be, the liquidation of such investments.

2. Each Contracting Party shall grant the necessary authorizations in connection with such investments and shall permit, within the framework of its legislation, the execution of labor, manufacturing license, technical, commercial, financial and administrative assistance contracts.

3. Each Contracting Party shall also grant, whenever necessary, the required authorizations in connection with the activities of consultants or experts engaged by investors of the other Contracting Party.

Article 4. Treatment

1. Each Contracting Party shall ensure in its territory fair and equitable treatment, in accordance with international law, of investments and investment income of investors of the other Contracting Party.

2. Such treatment shall be no less favorable than that accorded by each Contracting Party to investments and investment income of investors of any third State.

3. This treatment shall not extend, however, to privileges granted by a Contracting Party to investors of a third State by virtue of its present or future association or participation in a free trade area, a customs union, a common market or by virtue of any other international agreement of similar characteristics.

4. The treatment granted under this Article shall not extend to deductions, tax exemptions or other similar privileges granted by either Contracting Party to investors of third countries under an agreement for the avoidance of double taxation or any other taxation agreement.

5. Each Contracting Party shall, in accordance with its national legislation, apply to investments of investors of the other Contracting Party treatment no less favorable than that accorded to its own investors.

Article 5. Nationalization and Expropriation

1. Nationalization, expropriation or any other measure with similar characteristics or effects (hereinafter "expropriation") which may be taken by the authorities of a Contracting Party against investments in its territory of investors of the other Contracting Party shall be applied exclusively for reasons of public utility or social interest, in accordance with the provisions of law, shall in no case be discriminatory and shall be accompanied by the payment to the investor or his successor in title of prompt, adequate and effective compensation.

2. Compensation shall be equivalent to the real value that the expropriated investment had immediately before the time when the expropriation was announced or published, whichever is earlier. Compensation shall be paid without delay, in convertible currency and shall be effectively realizable and freely transferable.

3. If a Contracting Party takes any of the measures referred to in the preceding paragraphs of this Article in relation to the assets of an enterprise incorporated under the law in force in any part of its territory in which there is participation by investors of the other Contracting Party, it shall ensure that the provisions of the preceding paragraphs of this Article are applied in such a way as to guarantee the payment to such investors of prompt, adequate and effective compensation.

4. The affected investor shall have the right, in accordance with the law of the Contracting Party carrying out the expropriation, to a prompt review by the competent judicial or administrative authority of such Contracting Party of its case to determine whether the expropriated investment and the amount of compensation have been adopted in accordance with the principles set forth in this Article. The exercise of this right shall not preclude the investor from having access to the arbitral mechanisms provided for in Article 11 of this Agreement.

Article 6. Compensation for Losses

Investors of a Contracting Party whose investments or investment income in the territory of the other Contracting Party suffer losses due to war, other armed conflict, a state of national emergency, rebellion or riot or other similar circumstances, including losses occasioned by requisition, shall be accorded, by way of restitution, indemnification, compensation or other arrangement, treatment no less favorable than that accorded by the latter Contracting Party to its own investors and to investors of any third State. Any payment made pursuant to this Article shall be made promptly, adequately, effectively and freely transferable.

Article 7. Transfers

1. Each Contracting Party shall ensure to investors of the other Contracting Party, in respect of investments made in its territory, the free transfer of the income from such investments and other payments in connection therewith, and in particular, but not exclusively, the following:

- investment income as defined in Article 1;

- the indemnities provided for in article 5;

- the compensations provided for in article 6;

- the proceeds from the sale or liquidation, in whole or in part, of investments;

- the sums necessary for the repayment of loans linked to an investment;

- the initial capital and the additional sums necessary for the acquisition of raw or auxiliary materials, semi-finished or finished products or for the replacement of capital goods or any other sum necessary for the maintenance and development of the investment;

- wages, salaries and other remuneration received by nationals of a Contracting Party for work or services performed in the other Contracting Party in connection with an investment.

2. The Contracting Party receiving the investment shall provide the investor of the other Contracting Party or the company in which he participates with access to the foreign exchange market on a non-discriminatory basis, for the purpose of acquiring the foreign exchange necessary to make the transfers covered by this Article.

3. The transfers referred to in this Agreement shall be made without delay, in freely convertible currencies and at the exchange rate applicable on the day of the transfer.

4. The Contracting Parties undertake to facilitate the necessary procedures to effect such transfers without delay or restriction, in accordance with the practices of international financial centers. In particular, no more than three months shall elapse from the date on which the investor has duly submitted the necessary requests to effect the transfer until such time as the transfer is actually effected. Therefore, each Contracting Party undertakes to complete the necessary formalities both for the purchase of the currency and for its actual transfer abroad before the aforementioned deadline.

5. The Contracting Parties shall accord to the transfers referred to in this Article treatment no less favorable than that accorded to transfers originating from investors of any third State.

Article 8. More Favourable Conditions

1. If the legal provisions of one of the Contracting Parties, or obligations arising under international law outside this Agreement, whether existing or future, between the Contracting Parties, result in a general or special regulation under which investments of investors of the other Contracting Party are to be accorded more favorable treatment than that provided for in this Agreement, such regulation shall prevail over this Agreement to the extent that it is more favorable.

2. Conditions more favorable than those of this Agreement which have been agreed upon by one Contracting Party with investors of the other Contracting Party shall not be affected by this Agreement.

Article 9. Principle of Subrogation

In the event that a Contracting Party or the entity designated by it has granted any financial guarantee for non-commercial risks in connection with an investment made by its investors in the territory of the other Contracting Party, the latter shall

accept the subrogation of the first Contracting Party or its entity in the economic rights of the investor, as soon as the first Contracting Party or its entity has made a first payment under the guarantee granted. This subrogation shall make it possible for the first Contracting Party or its entity to be the direct beneficiary of any compensation payments to which the investor may be entitled.

As regards the rights of ownership, use, enjoyment or any other right in rem, subrogation may only take place after obtaining the relevant authorizations, in accordance with the legislation in force in the Contracting Party where the investment was made.

Article 10. Disputes between the Contracting Parties

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, to the extent possible, be settled through diplomatic channels.

2. If the dispute cannot be so settled within six months of the commencement of negotiations, it shall, at the request of either Contracting Party, be submitted to an arbitral tribunal.

3. The arbitral tribunal shall be constituted as follows: Each Contracting Party shall appoint one arbitrator and these two arbitrators shall choose a citizen of a third State as chairman. The arbitrators shall be appointed within three months, and the chairman within five months from the date on which either Contracting Party informed the other Contracting Party of its intention to submit the dispute to an arbitral tribunal.

4. If one of the Contracting Parties has not appointed its arbitrator within the prescribed time limit, the other Contracting Party may invite the President of the International Court of Justice to make such appointment. In the event that two arbitrators fail to agree on the appointment of the third arbitrator within the prescribed period, either Contracting Party may invite the President of the International Court of Justice to make the relevant appointment.

5. If, in the cases provided for in paragraph 4 of this Article, the President of the International Court of Justice is unable to perform such function, or is a national of any of the Contracting Parties, the Vice-President shall be invited to make the relevant appointments. If the Vice-President is unable to perform this function or is a national of any of the Contracting Parties, the designations shall be made by the most senior member of the International Court of Justice who is not a national of any of the Contracting Parties.

6. The arbitral tribunal shall render its decision on the basis of respect for the Law, for the rules contained in this Agreement or in other Agreements in force between the Contracting Parties, and for the universally recognized principles of International Law.

7. Unless the Contracting Parties decide otherwise, the tribunal shall establish its own procedure.

8. The tribunal shall reach its decision by majority vote, and its decision shall be final and binding on both Contracting Parties.

9. Each Contracting Party shall bear the expenses of the arbitrator appointed by it and those related to its representation in the arbitral proceedings. All other expenses, including those of the Chairman, shall be borne equally by both Contracting Parties.

Article 11. Disputes between a Contracting Party and Investors of the other Contracting Party

1. Any investment dispute arising between a Contracting Party and an investor of the other Contracting Party concerning matters governed by this Agreement shall be notified in writing, including detailed information, by the investor to the Contracting Party receiving the investment. To the extent possible the parties to the dispute shall attempt to settle such differences by amicable agreement.

2. If the dispute cannot be settled in this way within six months from the date of written notification referred to in paragraph 1, it shall, at the option of the investor, be submitted to the competent courts of the Contracting Party:

- to the competent courts of the Contracting Party in whose territory the investment was made;

- to an "ad hoc" arbitral tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law;

- to the International Centre for Settlement of Investment Disputes (C.I.A.D.I.) established by the "Convention on the

Settlement of Investment Disputes between States and Nationals of Other States", opened for signature at Washington on March 18, 1965, when each State party to this Agreement has acceded thereto.

3. The arbitration shall be based on

- the provisions of this Agreement and those of other agreements concluded between the Contracting Parties;

- the generally accepted rules and principles of international law;

- the national law of the Contracting Party in whose territory the investment has been made, including the rules relating to conflicts of law,

4. Arbitration awards shall be final and binding on the parties to the dispute. Each Contracting Party undertakes to enforce the awards in accordance with its national law.

Article 12. Entry Into Force, Duration and Termination

1. This Agreement shall enter into force on the day on which the Contracting Parties have notified each other that the respective constitutional formalities required for the entry into force of international agreements have been completed. It shall remain in force for an initial period of ten years and shall be renewed, by tacit renewal, for consecutive periods of two years.

Either Contracting Party may denounce this Agreement by prior written notice six months before the date of its expiration.

2. In the event of denunciation, the provisions of Articles 1 to 11 of this Agreement shall continue to apply for a period of ten years to investments made prior to the denunciation.

Done in two originals in the Spanish language, which are equally authentic, at San Salvador on February 14, 1995.

For the Kingdom of Spain

Javier Gómez Navarro,

Minister of Commerce and Tourism

For the Republic of El Salvador

Oscar Alfredo Santamaría,

Minister of Foreign Affairs