AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS AND THE GOVERNMENT OF THE REPUBLIC OF CHAD ON THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of Mauritius and the Government of the Republic of Chad hereinafter referred to as the "Contracting Parties";

Desiring to create favourable conditions for investment by investors of one Contracting Party in the territory of the other Contracting Party;

Recognising that the encouragement and reciprocal economic the promotion and protection of such investments will stimulate business contacts of the investors and will contribute to the prosperity of both States;

Desiring to intensify economic cooperation between the two States on the basis of equality and mutual benefit;

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investment" means every kind of assets invested by investors of either Contracting Party, in accordance with the legislation of each of the Contracting Parties in the territory or maritime zones and particularly but not limited to:

a) Movable and immovable property as well as any other rights in rem such as mortgages, pledge, usufruits and similar rights;

b) Shares, securities and other forms of direct or indirect participation even smaller companies formed in the territory of one of the Parties;

c) Intellectual property rights, such as copyrights, patents, utility models, industrial designs or models, trade marks, trademarks, trade names, indications of source, processes, technical know-how and goodwill;

d) Monetary claims and rights to any performance having an economic value;

e) Concessions granted in accordance with the law, including concessions related to culture, prospecting or exploitation, extraction of natural resources.

Any alteration of the form in which assets and capital is invested or reinvested shall not affect their character as investments within the meaning of this Agreement.

2. The term "Income" refers to amounts net of taxes earned on investments such as profits, interest, capital gains, dividends, royalties or other legal income.

Investment income and reinvestment shall enjoy the same protection as the investment.

3. The term investor means:

a) Natural persons having the nationality of either Contracting Party;

b) Legal entities, including companies, corporations registered or not, and other organizations, which are constituted in accordance with the law of that Contracting Party.

4. the term "territory" means,

(i) In respect of the Republic of Mauritius: all the territories and islands in accordance with the laws of Mauritius constitute the State of Mauritius; the territorial waters of Mauritius; and any area beyond the territorial waters of Mauritius, in accordance with international law, is or will be determined by the law of Mauritius as a zone and continental shelf included, which may be exercised the rights of Mauritius as regards the sea, its subsoil and seabed, as well as their territories and their natural resources.

(ii) In respect of the Republic of Chad, the territory under its sovereignty, including the territorial sea and underwater areas and other maritime and air space over which it exercises in accordance with international law, sovereign rights or jurisdiction;

Article 2. Scope

This Agreement shall also cover, upon its entry into force, investments made prior to its entry into force by investors of one Contracting Party in the territory of the other Contracting Party, in accordance with its laws and regulations, but does not include dispute which occurred prior to its entry into force.

Article 3. Investment Promotion

1. Each Contracting Party recognizes and encourages, within the framework of its laws and the provisions of this Agreement, the investments made by investors of the other party in its territory.

2. Each Contracting Party shall endeavour to grant, in accordance with its laws and regulations the necessary permits in connection with such investments and with the carrying out of licensing agreements, commercial, administrative or technical assistance, as well as the required authorisations for the activities of consultants and experts.

Article 4. The Treatment and Protection of Investments

1. Each Contracting Party undertakes to provide in its territory for investments of investors of the other party fair and equitable treatment which is not less favourable than that which it accords to its own investments of investors in accordance with its laws and regulations, or to investments of investors of the most favoured nation, if it is more favourable.

2. The most-favoured-nation treatment does not extend to the privileges which either Contracting Party accords to investors of a State by virtue of its association or participation in a free trade area, customs union, common market or any other form of regional economic organization or similar international agreement or any agreement for the avoidance of double taxation in taxation or any other arrangement relating to taxation.

3. Investments made by investors of one Contracting Party in the territory of the other Contracting Party granted by the National Assembly of a full full protection and security. Each Contracting Party undertakes, without prejudice to its laws and regulations, to ensure that the management, maintenance, use, enjoyment or disposal within its territory of the Investments of the other Contracting Party shall not be affected by unjustified or discriminatory measures.

4. The extension, modification or conversion of an investment made in accordance with the laws and regulations in force in the host country shall be regarded as an investment.

Article 5. Compensation for Losses

(1) Investors of one Contracting Party whose investments in the territory of the other contracting party have suffered losses due to a war or any other armed conflict, revolution, state of emergency, national revolt riot, insurrection or occurring in the territory of the latter Contracting Party, benefit from it, as regards restitution, indemnification, compensation or other settlement, a treatment no less favourable than that it accords to its own investors to investors or of any third State. resulting payments shall be freely transferable at the rate of exchange applicable on the date of transfer pursuant to the exchange regulations in force.

(2) Without prejudice to paragraph (1) of this article, investors of one Contracting Party who, in any of the situations referred to in that paragraph, suffer losses in the territory of the other Contracting Party as a result of:

(a) The requisition of their property by its forces or authorities; or

(b) The destruction of their property by its forces or authorities, which was not caused in combat or was not required by the necessity of the situation, shall be accorded adequate restitution or compensation. resulting payments shall be freely transferable at the rate of exchange applicable on the date of transfer pursuant to the exchange regulations in force.

Article 6. Nationalisation or Expropriation and Compensation

1. Investments of investors of one Contracting Party shall not be expropriated or nationalized, subjected to measures having effects equivalent to expropriation nationalisation or in the territory of the other Contracting Party except for reasons of public interest and provided that such measures are consistent with the legal requirements, they are non-discriminatory and provide for prompt payment of adequate and effective compensation. The compensation will correspond to the market value of the investment concerned on the day before the date on which the measures taken or are publicly available, the first of those facts are crucial. it shall include interest at a normal commercial rate until the date of payment, shall be paid without delay and shall be fully realizable freely transferable and at the rate of exchange applicable on the date of transfer pursuant to the exchange regulations in force.

2. The Investor affected by the expropriation shall have a right to a prompt review, within a period of six months from the date of the publication of the value of the compensation, according to the law of the expropriating Contracting Party, by a judicial or other independent authority accepted by both parties, of its case and of the valuation of its investment in accordance with the principles set out in this article.

3. If a Contracting Party expropriates the assets of a company registered or incorporated in accordance with the laws in force in its territory and in which investors of the other Contracting Party hold shares, it shall ensure, in accordance with its laws, that such investors are compensated in accordance with paragraph 1 of this Article.

Article 7. Transfers

1. Each Contracting Party in whose territory investments have been made by investors of the other Contracting Party shall authorize, in accordance with the law, the free transfer without delay in the convertible currency of the net liquid assets relating to such investments and in particular:

a. Interests, profits, dividends, royalties and other current income;

b. Funds in repayment of loans related to investments;

c. The proceeds of the sale of or the partial or total liquidation of the investment including the value of the investment capital;

d. Compensation payable pursuant to Articles 5 and 6;

e. Wages and other remuneration accruing to nationals of one Contracting Party who have been authorised to work in the territory of the other Contracting Party in connection with an investment.

2. The transfers referred to in paragraph 1 shall be made at the market rate of exchange on the date of transfer pursuant to the rules in force in the Contracting Parties.

Article 8. Subrogation

1. If under a legal or contractual guarantee covering non commercial investment risks, indemnities are paid to an investor of either Contracting Party, the other Contracting Party shall recognize the subrogation of the institution designated in the rights of the investor indemnified.

2. In accordance with the guarantee given to the Investment, the designated institution concerned shall be entitled to claim all the rights that the investor might exercise if the institution had not been discharge.

3. The transfer of payments arising out of the subrogation above shall be governed by the provisions of Article 7.

4. Any dispute between one Contracting Party and the insurer to an investment of the other Contracting Party shall be settled in accordance with the provisions of article 10 of this Agreement.

Article 9. Settlement of Disputes between the Contracting Parties

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

2. If the dispute cannot be settled through diplomatic channels within six months after the beginning of negotiations, it shall be submitted to an arbitral tribunal at the request of one of the Contracting Parties.

3. The Tribunal shall be constituted in the following manner:

Each Contracting Party shall appoint one arbitrator and the two arbitrators shall appoint a third arbitrator who is a national of a third State having diplomatic relations with both Contracting Parties as Chairman of the Tribunal. The arbitrators shall be appointed within three months from the date on which either Contracting Party has informed the other Contracting Party of its intention to submit the dispute to an arbitral tribunal. arbitrators shall have three months to appoint the Chair.

4. If the periods specified in paragraph 3 above have not been made, either Contracting Party may invite the President of the International Court of Justice to make the necessary appointments. If the President of the International Court of Justice is a national of either Contracting Party or if he is unable to perform this function, the Vice-President of the International Court of Justice shall be invited to make the necessary appointments. If the Vice-President is a national of either Contracting Party or if he is prevented from exercising his mandate, the most senior member of the International Court of Justice who is not a national of either Contracting Party shall be invited to make the appointments.

5. The arbitral tribunal shall decide on the basis of the provisions of this Agreement and the rules and principles of international law. The decision of the Tribunal shall be adopted by a majority of votes. It shall be final and binding on the Contracting Parties. Each Contracting Party shall bear the cost of the arbitrator it has appointed and of its representation in the arbitration proceedings and half the costs of the Chairman of the arbitral tribunal and other expenses.

6. Apart from the above the Tribunal shall establish its own rules of procedure.

Article 10. Settlement of Disputes Relating to Investments

1. Any investment dispute between a Contracting Party and an investor of the other Contracting Party, as far as possible be settled amicably through consultations and negotiations between the parties to the dispute.

2. in the absence of an amicable settlement through direct arrangement between the parties to the dispute within 6 months from the date of the written notification, the dispute shall be submitted at the choice of the investor:

a) Either to the competent court of the Contracting Party in whose territory the investment has been made;

b) or to arbitration at the International Centre for Settlement of Investment Disputes (ICSID), created by the "Convention on the Settlement of Investment Disputes between States and Nationals of Other States", opened for signature in Washington on 18 March 1965.

To this end, each Contracting Party gives its irrevocable consent to any dispute relafif inherent to the amount of compensation for expropriation is submitted to the arbitration procedure. other disputes shall be submitted to the procedure with the consent of both parties.

c) or to an ad hoc arbitral tribunal which, unless otherwise agreed between the parties to the dispute, is to be established under the Arbitration Rules of the United Nations Commission on United Nations Commission on International Trade Law (UNCITRAL).

3. Neither Contracting Party, Party to the dispute, can raise an objection, at any stage of the arbitration proceedings or of the execution of an arbitral award, on account of the fact that the investor, opposing party in the dispute has received an indemnity covering the whole or part of its losses by virtue of an insurance policy.

4. The arbitral tribunal shall decide on the basis of the national law of the Contracting Party, Party to the dispute, in the territory of which the investment is located, as well as on the basis of the rules relating to conflicts of law, the provisions of this Agreement, the terms of the specific agreements to be concluded in connection with investment as well as the principles of international law.

5. The arbitral awards shall be final and binding on the parties to the dispute. each Contracting Party undertakes to execute the award according to its national law.

6. Each Party shall bear the cost of the arbitrator it has appointed and of its representation in the arbitral proceedings. the cost of the President of the Court for its function as well as the other costs of the arbitral tribunal shall be borne equally by each of the Parties.

Article 11. Prohibitions and Restrictions

Nothing in this Agreement shall be construed to prevent a Contracting Party from taking any measure necessary for the protection of its essential security interests or for reasons of public health and prevention of diseases animal and plant

diseases.

Article 12. Miscellaneous and Final Provisions

1. Where a matter relating to investment is governed by this Agreement and simultaneously by the national legislation of either Contracting Party or under existing international conventions or undertaken by both parties in the future, investors of the other Contracting Party may avail itself of the provisions that are most favourable.

2. This Agreement shall enter into force thirty days after the date of receipt of the latter of the two notifications to the fulfilment by the two Contracting Parties legislative procedures required in their respective countries. it shall remain in force for a period of ten years. it shall be automatically renewed for a further period of ten years.

3. This Agreement may be amended by agreement parties through an exchange of letters under the same conditions and deadlines as provided for in paragraph 2 above.

4. Each Contracting Party reserving the right to terminate this Agreement by written notification at least six months before the date of expiry of the current period of validity.

5. On expiry of the validity of the present Agreement, investments over which it was in force will continue to benefit from the protection of its provisions for a further period of five years.

IN WITNESS WHEREOF the undersigned, duly authorized thereto by representatives, their respective Governments, have signed this Agreement.

Done at.... on..... in two originals, both texts being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS

FOR THE GOVERNMENT OF THE REPUBLIC OF CHAD