AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SENEGAL AND THE GOVERNMENT OF THE REPUBLIC OF ARGENTINA FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of Senegal

The Government of the Argentine Republic referred to hereinafter as the "Contracting Parties";

- Desiring to intensify economic cooperation between the two States;

- In order to create favourable conditions for investments of investors of one Contracting Party in the territory of the other Contracting Party;

- recognizing that the promotion and protection of such investment based on an agreement will stimulate economic initiative and individually and increase the prosperity of both States;

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

(1) The term "investment" means, in accordance with the laws and regulations of the Contracting Party in whose territory the investment was made, every kind of assets invested by investors of one Contracting Party in the territory of the other contracting party, in accordance with the legislation of the latter. Includes in particular, though not exclusively:

a) Ownership of movable and immovable property as well as any other rights in rem such as mortgages, bonds and pledges;

b) shares, company quotas and any other type of participation in companies;

c) debt securities and entitlements to benefits with an economic value; loans shall be included only where they are directly linked to a specific investment ;

d) intellectual property rights, including copyrights, patents, industrial designs, trade marks, registered names, technical processes, know-how, and goodwill;

e) economic concessions conferred by law or under contract, including concessions to prospecting or exploitation, extraction of natural resources.

This Agreement shall apply to all investments made before or after the date of its entry into force, but the provisions of this Agreement shall not apply to any dispute or difference claim, which arose before its entry into force.

(2) The term "investor" means:

a) Any natural person who is a national of one of the Contracting Parties in accordance with their laws on nationality;

b) Any legal person constituted in accordance with the laws and regulations of one Contracting Party and having its seat in the territory of that Contracting Party.

(3) The provisions of this Agreement shall not apply to investments made by natural persons who are nationals of one Contracting Party in the territory of the other Contracting Party if such persons, at the time of the investment, have been domiciled for more than two years in the latter Contracting Party, unless it is proved that the investment was admitted in its territory from abroad.

(4) The term "proceeds" means all amounts resulting from an investment such as profits, dividends, interest, royalties and

other current income.

(5) The term "territory" means the territory of each Contracting Party as well as the maritime areas adjacent to the outer limit of the territorial sea of the national territory, over which each Contracting Party may, in accordance with international law, sovereign rights or jurisdiction.

Article 2. Investment Promotion

Each Contracting Party shall promote investments in its territory by investors of the other Contracting Party and shall admit such investments in accordance with its laws and regulations.

Article 3. Protection of Investments

(1) Each Contracting Party shall at all times fair and equitable treatment to investments of investors of the other Contracting Party and shall not affect their management, maintenance, use, enjoyment or disposal through unjustified or discriminatory measures.

(2) Each Contracting Party, once admitted investments of investors in its territory of the other Contracting Party, it shall accord to such investments full legal protection and they agree upon a treatment no less favourable than that accorded to its own investors or investments of investors of any third party.

(3) Without prejudice to the provisions of paragraph (2) of this article, the most-favoured-nation treatment shall not extend to the advantages or privileges and preferences accorded to investors of a third State as a result of:

a) Participation or association of a Contracting Party in a free trade area, customs union or common market, a similar economic organization existing or future;

b) An international agreement relating wholly or partially to taxation issues;

c) Bilateral agreements that provide concessional financing by the Argentine Republic signed with Italy and Spain on 10 December 1987 on 3 June 1988.

Article 4. Expropriation and Compensation

(1) Neither of the Contracting Parties shall take measures of expropriation or nationalization or any other measures having the same effect against investments in its territory and belonging to investors of the other contracting party unless the measures are taken for a public purpose; on a non-discriminatory basis and under due process of law. The measures shall be accompanied by provisions for the payment of prompt, effective and adequate compensation. The amount of such compensation shall correspond to the real value of the expropriated investment was immediately before the expropriation or before the impending expropriation becomes public.

The compensation shall include interest from the date of expropriation at a normal commercial rate shall be paid without delay and shall be effectively realizable and freely transferable.

(2) Investors of one Contracting Party who suffer losses of their investments in the territory of the other contracting party owing to war or other armed conflicts, a national state of emergency, revolt, riot or insurrection shall be accorded by the latter Contracting Party, as regards restitution, indemnification, compensation or other relief, treatment no less favourable than that accorded to its own investors to investors or of any third State.

Article 5. Transfers

(1) Each Contracting Party shall accord to investors of the other Contracting Party the unrestricted transfer of their investments and returns, and in particular, though not exclusively:

a) The principal and additional amounts necessary for the maintenance and development of the investment;

b) Profits, dividends, interests and other current income;

c) The funds in repayment of loans as defined in article 1, paragraph (1) (c)

d) Royalties and fees;

e) The proceeds from a total or partial sale or liquidation of an investment;

f) The compensation provided for in article 4;

g) The earnings of nationals of one Contracting Party who are allowed to work in connection with an investment in the territory of the other contracting party.

(2) Transfers shall be effected without delay in a freely convertible currency at the rate of exchange applicable on the date of transfer pursuant to the procedures established by the Contracting Party in whose territory the investment was made, which shall not affect the rights provided for in this article.

Article 6. Subrogation

(1) If a Contracting Party or any of its agencies made a payment to an investor by virtue of a guarantee or insurance that has engaged in connection with an investment, the other Contracting Party shall recognize the validity of the subrogation in favour of that Contracting Party or agency to any right or title of the investor. the Contracting Party or any of its agencies shall be authorized to exercise the rights which the investor would have been entitled to exercise.

(2) In the case of subrogation as provided in paragraph (1) of this article, the investor shall not pursue a claim unless he is authorized to do so by the contracting party or its agency.

Article 7. Implementation of other Rules

If the provisions of law of either Contracting Party or obligations under international law existing or future between the Contracting Parties in addition to this Agreement or whether an agreement between an investor of one Contracting Party and the other contracting party contain rules whether general or specific that accorded to the investments made by investors of the other contracting party to a more favourable treatment than is provided for by the present Agreement, such rules shall prevail over this agreement to the extent that they are more favourable.

Article 8. Settlement of Disputes between the Contracting Parties

(1) Disputes arising between the contracting parties concerning the interpretation or application of this Agreement shall, if possible, be settled through diplomatic channels.

(2) If a dispute between the contracting parties cannot be settled within a period of six months from the date on which it was raised, it shall be submitted, at the request of either contracting party to an arbitral tribunal.

(3) The arbitral tribunal shall be constituted for each individual case in the following way. Within two months of the receipt of the request for arbitration, each Contracting Party shall appoint one member of the Tribunal. These two members shall select a national of a third State who on approval of the two Contracting Parties shall be appointed Chairman of the Tribunal. The Chairman shall be appointed within two months from the date of appointment of the other two members of the Tribunal.

(4) If has not been designated the arbitrators within periods specified in paragraph (3) of this Article, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to proceed with the necessary appointments. If the President is a national of one of the contracting parties or, if for any reason, is prevented from discharging the said function, the Vice-President shall be invited to make the appointments requested. If the Vice-President is a national of either of the contracting parties or if he is also prevented from discharging the function, the said member of the International Court of Justice who is next in order of precedence and is not a national of either Contracting Party shall be invited to make the necessary appointments.

(5) The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be binding on both contracting parties. Each Contracting Party shall bear the costs of the member of the Tribunal and of its representation in the arbitral proceedings the cost of the Chairman and the remaining costs shall be borne in principle in equal parts by the contracting parties. However, the arbitral tribunal shall determine its decision that a higher proportion of costs be borne by one of the two Contracting Parties, and this award shall be binding on both Contracting Parties. The tribunal shall determine its own procedure.

Article 9. Settlement of Disputes between an Investor and the Host Contracting Party of the Investment

(1) Any dispute concerning investments within the meaning of the present Agreement, between an investor of one Contracting Party and the other Contracting Party shall as far as possible, be settled amicably between the two parties

concerned.

(2) If the dispute cannot be settled within six months from the date on which it was raised by one or other of the parties concerned, may be submitted at the request of the investor:

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

- or international arbitration under the conditions described in paragraph (3) of this Article.

Once the investor has submitted the dispute to the courts of the Contracting Party concerned or to international arbitration, the choice of one of these procedures is final.

(3) In the event of recourse to international arbitration, the dispute may be brought before a dispute bodies listed below, at the choice of the investor:

- The International Centre for Settlement of Investment Disputes established by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, opened for signature at Washington on 18 March 1965, when each State Party to this Agreement has acceded to it. As long as this requirement is not fulfilled, each Contracting Party consents that the dispute be submitted to arbitration under the ICSID Additional Facility Rules.

- to an "ad hoc" arbitration tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).

(4) The arbitral tribunal shall decide on the basis of the provisions of this Agreement, the Law of the Contracting Party which is a party to the dispute including its rules on the Conflict of Laws, to the terms of any specific agreement concluded in relation to the 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 shall execute the In accordance with its legislation.

Article 10. Entry Into Force, Amendment, Duration and Termination

(1) This Agreement shall enter into force on the first day of the second month following the date on which the contracting parties have notified each other in writing that they have completed their respective constitutional requirements for entry into force of this Agreement. they shall be valid for 10 years, renewable by tacit renewal. After the initial duration, this Agreement may be denounced at any time by one of the Contracting Parties. However, it shall remain in force until the expiration of twelve months from the date on which either contracting party notifies in writing the other contracting party of its intention to terminate the agreement.

(2) With respect to investments made prior to the date when the notice of termination becomes effective, the provisions of articles 1 to 10 shall remain in force for a period of ten years.

Each Contracting Party may request in writing the total or partial amendment of this Agreement. the agreed amendments shall enter into force after the notification of the approval of both contracting parties.

The Government of the Republic of Senegal by the Government of the Republic of Argentina

Done at Dakar on 6 April 1993 in two original copies in the Spanish and French languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF SENEGAL

His Excellency Mr Djibo KA

Minister for Foreign Affairs of the Republic of Senegal

FOR THE GOVERNMENT OF THE ARGENTINE REPUBLIC

His Excellency Mr Héctor Alberto FLORES

Ambassador Extraordinary and Plenipotentiary of the Argentine Republic