AGREEMENT BETWEEN THE GOVERNMENT OF THE ITALIAN REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF UGANDA CONCERNING THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Italian Republic and the Government of the Republic of Uganda (hereafter referred to as "Contracting Parties"),

Desiring to establish favourable conditions for improved economic cooperation between the two countries, and especially in relation to capital investment by investors of one Contracting Party in the territory of the other Contracting Party;

And

Acknowledging that offering encouragement and mutual protection to such investment, based on international Agreements, will contribute to stimulate business ventures which foster the prosperity of both Contracting Parties,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investment" shall mean any kind of asset invested, irrespective of the legal form chosen, as well as of the legal framework, by a natural or legal person of a Contracting Party in the territory of the other Contracting Party, in conformity with the laws and regulations of that Party. Without limiting the generality of the foregoing, the term "investment" comprises in particular, but not exclusively:

a) Movable and immovable property and any ownership right in rem, including real guarantee property rights of a third party, to the extent that it can be invested;

b) Shares, debentures, equity holdings or any other instruments of credit, as well as Government and public securities in general;

c) Credits for sums of money or any service right having an economic value connected with an investment, as well as reinvested incomes and capital gains;

d) Copyright, commercial trade marks, patents, industrial designs and other intellectual and industrial property rights, know-how, trade secrets, trade names and goodwill;

e) Any economic rights accruing by law or by contract and any licence and franchise granted in accordance with the provisions in force on economic activities, including the right to prospect for, extract and exploit natural resources;

f) Any added value to the original investment.

Any modification in the form of the investment does not imply a change in the nature thereof.

2. The term "investor" shall mean any natural or legal person, as well as the foreign subsidiaries, affiliates and branches controlled in any way by the same person, of a Contracting Party investing in the territory of the other Contracting Party.

3. The term "natural person", in reference to either Contracting Party, shall mean any natural person holding the nationality of that State in accordance with its laws.

4. The term "legal person", in reference to either Contracting Party, shall mean any entity having its head office in the territory of one of the Contracting Parties and recognised by it, such as public institutions, corporations, partnerships, foundations and associations, regardless of whether their liability is limited or otherwise.

5. The term "income" shall mean the money accruing to an investment, including in particular profits or interests, interest income, capital gains, dividends, royalties or payments for assistance or technical services and others as well as any considerations in kind such as, but not exclusively, raw materials, produces or products, livestock.

6. The term "territory" shall mean, in addition to the zones contained within the land boundaries, the "maritime zones". The latter also comprise the marine and submarine zones over which the Contracting Parties exercise sovereignty and sovereign or jurisdictional rights under international law.

7. The term "investment agreement" shall mean an agreement that a Contracting Party may enter into with an investor of the other Contracting Party in order to regulate the specific legal relationships concerning the investment.

8. The term "non discriminatory treatment" shall mean treatment that is at least as favourable as the better of national treatment or most-favoured-nation treatment.

9. The term "right of access" shall mean the right to be admitted to carry out investment in the territory of the other Contracting Party, in conformity with the laws and regulations of that Party.

Article 2. Application of the Agreement

The provisions of this Agreement shall apply to all investments made before or after the entry into force of this Agreement by an investor of one Contracting Party into the territory of the other Contracting Party.

Article 3. Promotion and Protection of Investments

1. Both Contracting Parties shall encourage investors of the other Contracting Party to invest in their territory.

2. Investors of one of the Contracting Parties shall have the right of access to the investment activities, in the territory of the other Contracting Party, not less favourable than that granted as per Article 4.1.

3. Both Contracting Parties shall at all times ensure just and fair treatment of the investments of investors of the other Contracting Party. Both Contracting Parties shall ensure that the management, maintenance, use, transformation, enjoyment or assignment of the investments effected in their territory by investors of the other Contracting Party, as well as companies and enterprises in which these investments have been effected, shall in no way be subject to unjustified or discriminatory measures.

4. Each Contracting Party shall create and maintain, in its territory, a legal framework apt to guarantee to investors the continuity of legal treatment, including the compliance, in good faith, of all undertakings assumed with regard to each specific investor.

5. Neither of the Contracting Parties will set any conditions obliging an investor of the other Contracting Party to produce for export or to procure goods locally.

Article 4. National Treatment and the Most Favoured Nation Clause

1. Both Contracting Parties, within the bounds of their own territory, shall offer investments effected by investors of the other Contracting Party no less favourable treatment than that accorded to investments effected by their own nationals or investors of Third States.

2. In case, from the legislation of one of the Contracting Parties, or from the international obligations in force or that may come into force for the future for one of the Contracting Parties, should come out a legal framework according to which the investors of the other Contracting Party would be granted a more favourable treatment than the one foreseen in this Agreement, the treatment granted to the investors of such other parties will apply to investors of the relevant Contracting Party also for the outstanding relationships.

3. The provisions under points 1 and 2 of this Article do not refer to the advantages and privileges which one Contracting Party may grant to investors of Third States by virtue of their membership of a Customs or Economic Union, of a Common Market, of a Free Trade Area, of a regional or sub-regional Agreement, of an international multilateral economic Agreement or under Agreements signed in order to prevent double taxation or to facilitate cross border trade.

Article 5. Compensation for Damages or Losses

Should investors of one of the Contracting Parties incur losses or damages on their investments in the territory of the other

Contracting Party due to war, other forms of armed conflict, a state of emergency, civil strife or other similar events, the Contracting Party in which the investment has been effected shall accord treatment, as regards restitution, indemnification, compensation or other settlement, no less favourable than that which the latter Contracting Party accords to nationals or investors of any Third State.

All related payments shall be freely transferable without undue delay.

Article 6. Nationalization or Expropriation

1. The investments to which this Agreement relates shall not be subject to any measure which might limit the right of ownership, possession, control or enjoyment of the investments, permanently or temporarily, unless specifically provided by current, national or local legislation and regulations and orders handed down by Courts or Tribunals having jurisdiction.

2. Investments of investors of one of the Contracting Parties shall not be, "de jure" or "de facto", directly or indirectly nationalized, expropriated, requisitioned or subjected to any measure having an equivalent effect in the territory of the other Contracting Party, except for public purposes or national interest and in exchange for immediate full and effective compensation, and on condition that these measures are taken on a non-discriminatory basis and in conformity with all legal provisions and procedures.

3. The just compensation shall be equivalent to the fair market value of the expropriated investment immediately prior to the moment in which the decision to nationalise or expropriate is announced or made public.

Whenever there are difficulties in ascertaining the fair market value, it shall be determined according to the internationally acknowledged evaluation standards.

Compensation shall be calculated in a convertible currency at the prevailing exchange rate applicable on the date on which the decision to nationalise or expropriate is announced or made public and shall include interests calculated on the basis of LIBOR Standards from the date of nationalisation or expropriation to the date of payment. Once the compensation has been determined, it shall be paid without undue delay — and in any case within six months — and the authorisation for its transfer abroad — if necessary — issued promptly.

4. In case that the object of the expropriation is a joint-venture constituted in the territory of one of the Contracting Parties, the compensation to be paid to the investor of the other Contracting Party shall be calculated taking into account the share of such investor in the joint-venture, in accordance with its basic documents.

5. A national or company of either Contracting Party that asserts that all or part of its investment has been expropriated shall have the right to prompt review by the appropriate judicial or administrative authorities of the other Contracting Party to determine whether any such expropriation has occurred and, if so, whether such expropriation and any compensation thereof conforms to the principles of international law, and to decide all other matters relating thereto.

6. If, after the dispossession, the expropriated investment has not been utilized, wholly or partially, for that purpose, the owner or his assignees are entitled to repurchase it at the compensation price calculated according to paragraph 3 of this Article.

Article 7. Repatriation of Capital, Profits and Income

1. Each Contracting Party shall ensure that all payments relating to an investment of an investor of the other Contracting Party may be freely transferred into and out of its territory without undue delay after the fiscal obligations have been met. Such transfers shall include, in particular, though not exclusively:

a) Capital and additional capital, including reinvested income, used to maintain and increase investment;

b) The net income, dividends, royalties, payments for assistance and technical services, interests and other profits;

c) Income deriving from the total or partial sale or the total or partial liquidation of an investment;

d) Funds to repay loans connected to an investment and the payment of the related interests;

e) Remuneration and allowances paid to nationals of the other Contracting Party for work and services performed in relation to an investment effected in the territory of the other Contracting Party, in the amount and manner prescribed by the national legislation and regulations in force;

f) Compensation payments provided for in Article 5.

2. The fiscal obligations under the previous paragraph are deemed to be complied with when the investor has fulfilled the procedures provided for by the legislation of the Contracting Party on whose territory the investment has been carried out.

3. Without restricting the scope of Article 4 of this Agreement, the Contracting Parties undertake to apply to the transfers mentioned in paragraph 1 of this Article the same favourable treatment accorded to investments effected by investors of Third States, in case it is more favourable.

Article 8. Subrogation

In the event that one Contracting Party or an Institution thereof has provided a guarantee in respect of non-commercial risks for the investment effected by one of its investors in the territory of the other Contracting Party, and has effected payment to the said investor on the basis of that guarantee, the other Contracting Party shall recognise the assignment of the rights of the investor to the first-named Contracting Party. In relation to the transfer of payments to the Contracting Party or its Institution by virtue of this assignment, the provisions of Article 5, 6 and 7 of this Agreement shall apply.

Article 9. Transfer Procedures

The transfers referred to in Article 7 and 8 shall be effected without undue delay and, at all events, within three months. All the transfers, including those provided for in Article 6, shall be made in a convertible currency at the prevailing exchange rate applicable on the date on which the investor applies for the related transfer, with the exception of the provisions under paragraph 3 of Article 6 concerning the exchange rate applicable in case of nationalization or expropriation.

Article 10. Settlement of Disputes between Investors and Contracting Parties

1. Any dispute which may arise between one of the Contracting Parties and the investors of the other Contracting Party on investments, including disputes relating to the amount of compensation, shall be settled through consultations and negotiations, as far as possible.

2. In case the investor and an entity of one of the Contracting Parties have entered into an investment agreement, the procedure foreseen in such investment agreement shall apply.

3. In the event that such dispute cannot be settled as provided in paragraph 1 of this Article within six months of the date of the written application for settlement, the investor in question may submit at his choice the dispute for settlement to:

a) The Contracting Party's Court having territorial jurisdiction;

b) An ad hoc Arbitration Tribunal, in compliance with the arbitration regulation of the UN Commission on the International Trade Law (UNCITRAL); the host Contracting Party undertakes hereby to accept the reference to said arbitration; or

c) The International Centre for Settlement of Investment Disputes, for the implementation of the arbitration procedures under the Washington Convention of 18 March, 1965, on the Settlement of Investment Disputes between States and Nationals of other States, if or as soon as both Contracting Parties have acceded to it.

4. Both Contracting Parties shall refrain from negotiating through diplomatic channels any matter relating to an arbitration procedure or judicial procedures underway until these procedures have been concluded and one of the Contracting Parties has failed to comply with the ruling of the Arbitration Tribunal or the Court of law within the period envisaged by the ruling, or else within the period which can be determined on the basis of the international or domestic law provisions which can be applied to the case.

Article 11. Settlement of Disputes between the Contracting Parties

1. Any dispute which may arise between the Contracting Parties relating to the interpretation and application of this Agreement shall, as far as possible, be settled through consultations and negotiations.

2. In the event that the dispute cannot be settled within six months of the date on which one of the Contracting Parties notifies, in writing, the other Contracting Party, the dispute shall, at the request of one of the Contracting Parties, be laid before an ad hoc arbitration Tribunal as provided in this Article.

3. The arbitration Tribunal shall be constituted in the following manner: within two months from the moment on which the request for arbitration is received, each of the two Contracting Parties shall appoint a member of the Tribunal. The President shall be appointed within three months of the date on which the other two members are appointed.

4. If, within the period specified in paragraph 3 of this Article, the appointments have not been made, each of the two Contracting Parties can, in default of other arrangement, ask the President of the International Court of Justice to make the appointment. In the event that the President of the Court is a national of one of the Contracting Parties or it is, for any reason, impossible for him to make the appointment, the application shall be made to the Vice President of the Court. If the Vice-President of the Court is a national of one of the Contracting Parties, or is unable to make the appointment for any reason, the most senior member of the International Court of Justice, who is not a national of one of the Contracting Parties, shall be invited to make the appointment.

5. The arbitration Tribunal shall rule with a majority vote, and its decisions shall be binding. Both Contracting Parties shall pay the costs of their own arbitration and of their representative at the hearings. The President's costs and any other cost shall be divided equally between the Contracting Parties. The arbitration Tribunal shall lay down its own procedures.

Article 12. Relations between Governments

The provisions of this Agreement shall be applied irrespective of whether or not the Contracting Parties have diplomatic or consular relations.

Article 13. Application of other Provisions

1. If a matter is governed both by this Agreement and by another international Agreement to which both Contracting Parties are signatories, or by general international law provisions, the most favourable provisions shall be applied to the Contracting Parties and to the their investors.

2. Whenever the treatment accorded by one Contracting Party to the investors of the other Contracting Party, according to its laws and regulations or other provisions or specific contracts or investment authorisations or agreements, is more favourable than that provided under this Agreement, the most favourable treatment shall apply.

3. Whenever, after the date when the investment has been made, a modification should take place in laws, regulations, acts or measures of economic policies governing directly or indirectly the investment, the same treatment will apply upon request of the investor that was applicable to it at the moment when the investment had been carried out.

Article 14. Entry Into Force

This Agreement shall enter into force as from the receiving date of the last of the two notifications by which the two Contracting Parties shall communicate officially to each other that their respective ratification procedures have been completed.

Article 15. Duration and Expiry

1. This Agreement shall remain effective for a period of 10 years from the date of the notification under Article 14 and shall remain in force for a further period of 5 years thereafter, unless either of the two Contracting Parties decides to denounce it not later than one year before its expiry date.

2. In the case of investments effected prior to the expiry date, as provided under paragraph 1 of this Article, the provisions of the Articles 1 to 13 shall remain effective for a further period of five years after the aforementioned dates.

DONE in Rome, on the 12th day of December 1997, in two originals, each in the Italian and in the English languages, all texts being equally authentic.

FOR THE GOVERNMENT OF THE ITALIAN REPUBLIC

FOR THE GOVERNMENT OF THE REPUBLIC OF UGANDA

Protocol

In signing the Agreement between the Government of the Italian Republic and the Government of the Republic of Uganda

on Investment Promotion and Protection, the Contracting Parties have also agreed the following clauses to be considered as integral parts of the Agreement.

1. General Provision

Given that an investment in question in this Agreement complies with the legislation of the Contracting Party in the territory of which it was carried out, this Agreement and all the clauses contained therein also apply to the following activities connected to it:

The organization, control, operation, maintenance and transfer of companies, branches, agencies, offices, workshops or other structures useful for the conduct of business; the proceeds deriving from registrations, licenses, permits and other authorizations necessary for the performance of commercial activities; the conclusion, formalization and execution of contracts; the acquisition, use and transfer of property of any kind, including intellectual property, and related protection; access to the financial market, in particular the borrowing of funds, the purchase, issue and sale of shareholdings and other securities and the purchase of currency for imports necessary for the conduct of business; the marketing of goods and services; the granting of franchises or rights under license; the collection, sale and transport of raw materials and derivative products, energy, fuels and means of production; the dissemination of commercial information.

2. With Reference to Article 3

a) In accordance with its laws and regulations, each Contracting Party will guarantee to the citizens of the other Contracting Party who are in its territory in connection with an investment under this Agreement, of the working conditions appropriate to the performance of their professional activities.

b) In accordance with its own laws and regulations, each Contracting Party shall regulate in the most favorable way possible the problems concerning the entry, stay, work and movements on its territory of the farmers of the other Contracting Party, and their family members, engaged in investment-related activities under this Agreement.

c) Companies legally established in accordance with the laws or regulations in force in one of the Parties, and which are owned by the other Party or controlled by the latter, have the right to employ, at their choice, high level management personnel , regardless of the nationality of the latter, in accordance with the legislation of the host Contracting Party.

3. With Reference to Article 4

All the activities concerning the purchase, sale and transport of raw materials and derivative products, energy, fuels, capital goods, as well as any other operation connected to them or in any way connected to entrepreneurial initiatives provided for in this Agreement, will also enjoy, in the territory of each Contracting Party, for a treatment no less favorable than that accorded to similar activities and initiatives of resident citizens or investors from Third Countries.

4. With Reference to Article 6

Any measure adopted by one of the Contracting Parties in relation to an investment made by an investor of the other Party that subtracts financial resources or the value of other assets making up the investment or which creates obstacles to the assets or substantially affects the value of the investment itself , will be considered as one of the measures referred to in paragraph 2 of Article 6.

5. With Reference to Article 9

As for the arbitration pursuant to Art. 10.3 (b), it will be held in accordance with the arbitration criteria of the United Nations Commission for International Commercial Law (UNCITRAL), contained in the Resolution of the UN General Assembly No. 31/98 of 15 December 1976, in the compliance with the following provisions:

a) The Arbitral Tribunal shall be composed of three arbitrators. If they are not citizens of the Contracting Parties, they must be citizens of States having diplomatic relations with both Contracting Parties.

The President of the Arbitration Institute of the Stockholm Chamber will proceed, in its capacity as Appointment Authority, to the nominations of the arbitrators.

The place of arbitration shall be Stockholm, unless otherwise agreed between the Parties concerned;

b) The decision of the Arbitral Tribunal shall in any case take into account the provisions contained in this Agreement and

the principles of recognized international law of the two Contracting Parties.

The recognition and execution of the arbitration decision in the territory of the Contracting Parties shall be governed by the respective national legislation in accordance with the relevant international Conventions, of which they are parties.

IN WITNESS WHEREOF the undersigned, duly authorized by their respective Governments, have duly signed the present Protocol.

Done at Rome, 12 December 1997, in two originals, in Italian and English, all texts being equally authentic.

FOR THE GOVERNMENT OF THE ITALIAN REPUBLIC

FOR THE GOVERNMENT OF THE REPUBLIC OF UGANDA