AGREEMENT BETWEEN THE GOVERNMENT OF THE ITALIAN REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF CUBA ON THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Italian Republic and the Government of the Republic of Cuba (hereafter referred to as "Contracting Parties"), wishing to create favorable conditions for greater economic cooperation between the two countries and, in particular, investments by investors of a Party Contracting Party in the territory of the other Contracting Party and, recognizing that promotion and mutual protection under the International Agreements of such investments will contribute to the stimulation of entrepreneurial initiatives capable of favoring the prosperity of the two Contracting Parties,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. "Investment" means any asset invested by natural or legal persons of a Contracting Party in the territory of another Contracting Party, irrespective of the legal form chosen and the legal reference system, in accordance with the laws and regulations of that Contracting Party.

In this context of general nature, the term "investment" means:

a) Movable and immovable property, as well as any real rights including, as far as is usable for investment, the real rights of collateral on third party property;

b) Securities, shares, bonds, shareholdings and any other title of credit as well as government bonds and public securities in general;

c) Financial claims for money or any other right for bonds or services having an economic value as well as, as defined in paragraph 5 of this Article, investment income, item 5 of this Article, investment income;

d) Copyright, trade marks, patents, industrial designs and other intellectual and industrial property rights, know-how, business secrets, firm and start-up;

e) Any law of economic nature conferred by law or by contract, as well as any license and concession issued in accordance with current provisions for the pursuit of economic activities, including those for prospecting, cultivation, extraction and exploitation of natural resources.

2. "Investor" means a natural or legal person of a Contracting Party who has carried out, intends or intends to make investments in the territory of the other Contracting Party.

3. "Natural person" means, for each Contracting Party, a natural person who, by law, has a nationality.

4. "Legal person" means, with reference to each Contracting Party, any entity having its registered office in the territory of one of them and recognized as public bodies, companies of persons or capital, foundations, associations, and independently of Whether or not it is a limited liability.

5. "Income" means the sums earned or to be derived from an investment, including, in particular, profits or units of profits, interest, capital gains, dividends, royalties, service fees and technical services and other income, including reinvested earnings And capital increases.

6. "Territory" means, in addition to the land within the land borders, also "maritime areas". The latter comprise marine or submarine areas on which the Contracting States have sovereignty or exercise, under international law, sovereignty and jurisdiction.

Article 2. Promotion and Investment Protection

1. Each Party shall encourage investors from the other Contracting Party to make investments in their territory and shall grant such authorization in accordance with their legislation.

2. Each Contracting Party will always ensure fair and equitable treatment for investors of the other. Each Contracting Party shall ensure that the management, maintenance, enjoyment, transformation, termination and liquidation of investments made in its territory by investors of the other, as well as the companies and undertakings in which such investments have been made, shall not come into No way affected by unjustified or discriminatory measures.

Article 3. Most Favored Country Clause and National Treatment

1. Each Contracting Party, in its territory, shall grant investment and the related incomes of the investors of the other, a treatment no less favorable than that reserved for the investments and related incomes of third-country investors.

2. Each Contracting Party shall, in its territory, grant investments and related incomes of the investors of the other, in similar activities, treatment and legal arrangements which are no less favorable than those established nationally for the investments and income of its own investors.

3. The provisions of this Article shall not apply to the advantages and privileges that a Contracting Party recognizes or recognizes to third countries as a result of its participation in customs or economic unions, common market organizations, free trade areas, regional or sub-regional agreements, international multilateral economic agreements or by virtue of Agreements concluded to avoid double taxation or to facilitate cross-border trade.

Article 4. Compensation for Damages or Losses

Where investors in one of the two Contracting Parties suffer losses in their investments in the territory of the other Party due to wars or other armed conflicts, emergency situations or other similar events, the Contracting Party in which the investment was made, will provide adequate compensation. Payments will take place without undue delay and will be freely transferable.

The investors concerned will be treated in the same way as the investors of the obligated Contracting Party and, in any case, will be treated no less favorably than investors from third countries.

Article 5. Nationalization and Expropriation

1. Capital investments of investors of one of the Contracting Parties shall enjoy full protection and security in the territory of the other.

2. Investments of investors of one of the Contracting Parties shall not be directly or indirectly nationalized, expropriated, requisitioned or subjected to measures having similar effects in the territory of the other Contracting Party except for public purposes or reasons of public or national interest, against adequate compensation and provided that such measures are taken on a non-discriminatory basis and in accordance with legal provisions and procedures.

3. The compensation. shall be equivalent to the actual market value of the investment immediately prior to the time when the decisions of nationalization or expropriation were announced or made public. In the event that the market value cannot be rapidly ascertained, the indemnity shall be determined on the basis of a fair valuation of the constituent and distinctive elements of the enterprise, as well as the components and results of the related business activities. The compensation shall include the interest accrued from the date of nationalization or expropriation until the date of payment, calculated at the 6-month LIBOR rate.

In the event that no agreement is reached between the Investor and the Obligated Party, the determination of the compensation shall be settled in accordance with the dispute settlement procedures set forth in Article 9 of this Agreement.

Once the compensation is determined, it will be promptly paid and its repatriation in convertible currency will be authorized.

4. The provisions of Paragraph 2 of this Article shall also apply to income derived from an investment, as well as, in the event of liquidation, to proceeds derived therefrom.

5. After expropriation, if any property acquired for this purpose has not received all or part of its intended use, the

expropriated persons and their successors in title shall be entitled to have it repurchased.

Article 6. Repatriation of Capital, Profits and Wages

Each of the Contracting Parties shall guarantee to the investors of the other, after discharge by such investors of all tax obligations, the transfer abroad in any convertible currency that the Parties concerned agree upon and without due delay of:

(a) capital and additional portions of capital used for maintenance and increase of investments;

b) net income, dividends, royalties, fees for technical assistance and services, interest and any other profit;

c) sums derived from the total or partial sale, or liquidation of an investment;

d) sums destined for the repayment of loans relating to an investment and the payment of interest thereon; remuneration and indemnities received by nationals of the other Contracting Party and deriving from employment and services rendered in the implementation of investments carried out on its territory, to the extent and in the manner provided for by national laws and regulations in force.

2. Taking into account Article 3 of this Agreement, the Contracting Parties undertake to accord to the transfers referred to in paragraph 1 of this Article, the same treatment as that accorded to those deriving from investments made by investors from third States, if more favorable.

Article 7. Subrogation

In the event that a Contracting Party or one of its institutions has granted an insurance guarantee against non-commercial risks for investments made by one of its investors in the territory of the other and has made payments. The Contracting Party or one of its institutions has granted an insurance guarantee against non-commercial risks for investments made by one of its investors in the territory of the other and has made payments. For payments to be made to the Contracting Party or its Institution under such subrogation, Articles 4, 5 and 6 of this Agreement shall apply, respectively.

Article 8. Transfer Modalities

1. The transfers mentioned in Articles 4, 5, 6 and 7 shall be made without undue delay after the fulfillment of tax obligations and in any event within six months. Such transfers shall be made in the convertible currency agreed upon by the parties concerned, according to the exchange rate applicable to the quotations on the New York market two working days prior to the transfer request.

2. The tax obligations referred to in the preceding paragraph shall be deemed to have been fulfilled when the investor has complied with the procedure provided for by the law of the Contracting Party in whose territory the investment has been made.

Article 9. Settlement of Disputes between a Contracting Party and an Investor of the other

1. Disputes arising between one of the Contracting Parties and an investor of the other Contracting Party in connection with investments shall, as far as possible, be settled amicably between the parties to the dispute.

2. If a dispute cannot be resolved within six months from the date on which it was commenced in writing, it may be submitted at the option of the investor:

(a) To the competent Court, in its, subsequent degrees, of the Contracting Party on whose territory the dispute has arisen.

b) To an arbitral tribunal in accordance with the provisions of paragraphs 3 to 5 of Article 10.

3. The Contracting Party involved in the dispute shall refrain, during the arbitration proceedings or the enforcement of the award, from objecting to the fact that the investor of the other Contracting Party has received insurance compensation for part or all of the loss.

Article 10. Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation and application of this Agreement shall, as far as

possible, be settled amicably through diplomatic channels.

2. In the event that such disputes cannot be settled within three months from the date of written request by either Contracting Party, they shall, at the request of either Contracting Party, be submitted to an ad hoc arbitral tribunal in accordance with the provisions of this Article.

3. The Arbitral Tribunal will be constituted as follows: within two months from the date of receipt of the request for arbitration, each Party will appoint one member of the Tribunal. These two members will then select, as President, a national of a third State. The President will be appointed within three months from the date of appointment of the two aforementioned members.

4. If within the time limits referred to in paragraph 3 of this Article the appointments have not been made, either of the Contracting Parties may, in the absence of other Agreements, request the President of the Permanent Court of Arbitration at The Hague to make them. If he is a national of one of the Contracting Parties or if it is not possible for him to accept the appointment, a request will be made to the Vice President of the Court who will make the appointment. If the Vice President is a national of one of the Contracting Parties or it is not possible for him to accept the appointment, the oldest member of the Permanent Court of Arbitration in The Hague who is not a national of one of the Contracting Parties shall be invited to do so.

5. The Arbitral Tribunal shall decide by majority vote and its decisions shall be binding. Each Contracting Party shall bear the costs of its own arbitrator and the costs of its participation in the arbitral proceedings. The expenses for the President and the remaining expenses shall be borne by the two Parties in equal measure. The Arbitral Tribunal shall establish its own rules of procedure.

Article 11. Relations between Governments

The provisions of this Agreement shall be applied irrespective of the existence of diplomatic or consular relations between the Contracting Parties.

Article 12. Application of Miscellaneous Provisions

1. In the event that a matter is governed both by this Agreement and by any other international agreement to which the two Contracting Parties are parties, or is otherwise governed by rules of general international law, the provisions in each case most favorable to the Contracting Parties themselves and their investors shall apply.

2. In the event that one Contracting Party, by virtue of its laws, regulations, provisions or specific contracts, has adopted more favourable legislation for the investors of the other Contracting Party than that provided for in this Agreement, the more favourable treatment shall be accorded to such investors.

Article 13. Scope of Application

This Agreement shall apply to investments of investors of each of the Contracting Parties which have been made in the territory of the other Contracting Party prior to its entry into force, provided that such investments are legally operating at this time, as well as to investments which will be made thereafter within the scope and under the protection of this Agreement.

Article 14. Entry Into Force

This Agreement shall enter into force on the date on which the two Contracting Parties have notified each other of the completion of their respective constitutional procedures.

Article 15. Duration and Termination

1. This Agreement shall remain in force for 10 years, starting from the date of completion of the notification procedures referred to in Article 14, and shall be tacitly extended for successive periods of 5 years, unless either Party has denounced it in writing before one year from the date of each expiry.

2. For investments made prior to the expiration dates set forth in Section 1 of this Article, the provisions of Articles 1 through 13 shall remain in effect for an additional five years from such dates.

In witness whereof the undersigned, duly authorized by their respective Governments, have signed this Agreement.

DONE in duplicate in Rome on 7 May 1993 in the Italian and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE ITALIAN REPUBLIC

FOR THE GOVERNMENT OF THE CUBA REPUBLIC

PROTOCOL

In signing the Agreement between the Government of the Italian Republic and the Government of the Republic of Cuba on the Promotion and Protection of Investments, the following clauses were also agreed upon and are to be considered an integral part of the Agreement.

1. With reference to Article 3:

(a) Activities, related to investments, concerning the sale and transportation of raw materials and their derivatives, energy, fuels, capital goods, as well as any other transaction related thereto and in any case connected with business initiatives referred to in this Agreement, shall equally enjoy in the territory of each Contracting Party treatment no less favorable than that reserved for similar activities and initiatives of residents or investors of any other third country.

b) Each Contracting Party shall regulate, according to its laws and regulations, and

b) Each Contracting Party shall regulate, in accordance with its laws and regulations, and as favourably as possible, problems relating to the entry, residence, work and movement within its territory of nationals of the other Contracting Party and members of their families carrying on activities related to investments in the spirit of this Agreement.

Done in duplicate at Rome on May 7, 1993 in the Italian and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF CUBA

FOR THE GOVERNMENT OF THE ITALIAN REPUBLIC