COOPERATION AND INVESTMENT FACILITATION AGREEMENT BETWEEN THE FEDERATIVE REPUBLIC OF BRAZIL AND THE DEMOCRATIC REPUBLIC OF SÃO TOMÉ AND PRÍNCIPE

The Federative Republic of Brazil

The Democratic Republic of São Tomé and Príncipe (hereinafter referred to as the "Parties" or, individually, "Party"),

Desiring to strengthen and perfect the bonds of friendship and the spirit of continuous cooperation between the Parties;

Seeking to create and maintain favorable conditions for investments by investors of one Party in the territory of the other Party;

Seeking to stimulate, simplify and support bilateral investments, opening up new opportunities for integration between the Parties;

Recognizing the fundamental role of investment in promoting sustainable development;

Considering that the establishment of a strategic partnership between the Parties in the area of investment will bring broad and reciprocal benefits;

Recognizing the importance of promoting a transparent and friendly investment environment for investors of the Parties;

Reaffirming the regulatory autonomy and the power of each Party to implement public policies;

Desiring to encourage and strengthen contacts between investors and the governments of the two Parties; and

Seeking to create a mechanism for technical dialog and to promote government initiatives that contribute to a significant increase in mutual investments;

Agree to conclude the following Investment Cooperation and Facilitation Agreement, hereinafter referred to as the "Agreement", as follows:

Part 1. Scope of the Agreement and Definitions

Article 1. Objective

The purpose of this Agreement is to facilitate and promote mutual investment through the establishment of an appropriate framework for the treatment of investors and their investments, the establishment of an institutional framework for cooperation and facilitation, including an Agenda for Cooperation and Facilitation, as well as mechanisms for the prevention and settlement of disputes.

Article 2. Scope and Coverage

1. This Agreement shall apply to all investments made before or after its entry into force.

2. This Agreement shall not limit the rights and benefits that an investor of one Party enjoys under national or international law in the territory of the other Party.

3. For the sake of clarity, the Parties reaffirm that this Agreement shall apply without prejudice to the rights and obligations derived from the Agreements of the World Trade Organization.

4. This Agreement shall not prevent the adoption and implementation of new legal requirements or restrictions on investors and their investments, provided that they are compatible with this Agreement.

5. This Agreement shall not apply to the issuance of compulsory licenses issued in relation to intellectual property rights pursuant to the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), or to the revocation, limitation or creation of intellectual property rights to the extent that their issuance, revocation, limitation or creation is compatible with the TRIPS Agreement.

Article 3. Definitions

For the purposes of this Agreement:

1.1 "Enterprise" means any entity incorporated or organized under the applicable national law of each Party, whether for profit or not, whether privately or governmentally owned.

1.2 "Host State" means the Party in which the investment is made.

1.3 "Investment" means a direct investment by an investor of a Party, established or acquired in accordance with the laws and regulations of the other Party, that enables it to exercise, directly or indirectly, control or a significant degree of influence over the management of the production of goods or the provision of services in the territory of the other Party, including, but not limited to: it does not include:

a) shares, bonds, participations and other types of capital of an enterprise;

b) movable or immovable property and any other property rights, such as hypothecation, encumbrance, pledge, usufruct and similar rights and obligations;

c) exploitation and use rights conferred by licenses, authorizations or concessions granted and regulated by the legislation of the host state and/or by contract;

d) loans to another company and debt instruments of another company; and

e) intellectual property rights, as defined or referred to in the TRIPS Agreement.

1.3.1 For the purposes of this Agreement and to provide greater clarity, "Investment" means

a) an order or judgment issued in any judicial or administrative proceeding;

b) debt securities issued by a Party or loans granted by a Party to another Party, bonds, debentures, loans or other debt instruments of a state-owned enterprise of a Party that is considered a public debt under the law of that Party;

c) portfolio investments, i.e. those that do not allow the investor to exercise a significant degree of influence over the management of the company; and

d) credit claims arising exclusively from commercial contracts for the sale of goods or services by an investor in the territory of one Party to a national or an enterprise in the territory of the other Party, or the granting of credit in the framework of a commercial transaction, or any other monetary claims that do not involve the type of interests set forth in subparagraphs (a) through (e) above; and

e) rights derived from any expenses or other financial obligations incurred by the investor prior to the establishment of the investment, including with a view to complying with regulations concerning the admission of foreign capital or other specific limits or conditions, in accordance with the legislation on the admission of investments of the host state.

1.4 "Investor" means a national, permanent resident in accordance with the laws and regulations of each Party, or company of a Party that has made an investment in the territory of the other Party.

1.5 "Measure" means any measure adopted by a Party, whether in the form of a law, regulation, rule, procedure, administrative decision or provision, or in any other form.

1.6 "National" means a natural person who is a national of a Party in accordance with its laws and regulations.

1.7 "Territory" means the territory, including its land and air spaces, the exclusive economic zone, the territorial sea, the continental shelf, the soil and subsoil over which the Party exercises its rights of sovereignty or jurisdiction, in accordance with international law and its internal legislation.

Part II. Regulatory Measures

Article 4. Treatment

1. Each Party shall admit and encourage investments by investors of another Party in accordance with its respective laws and regulations and in conformity with this Agreement.

2. In accordance with the principles of this Agreement, each Party shall ensure that all measures affecting investments are administered in a reasonable, objective and impartial manner, in accordance with due process of law and its respective laws.

3. For the sake of clarity, the standards of "fair and equitable treatment" and "full protection and security" are not covered by this Agreement and shall not be used as an interpretative standard in investment disputes.

Article 5. National Treatment

1. Without prejudice to the measures in force under its legislation on the date this Agreement enters into force, each Party shall accord to investors of the other Party treatment no less favorable than that accorded, in similar circumstances, to its own investors in connection with the establishment, acquisition, expansion, management, conduct, operation, sale or other disposal of investments in its territory.

2. Without prejudice to the measures in force under its legislation on the date this Agreement enters into force, each Party shall accord to the investments of the investors of the other Party treatment no less favorable than that accorded, in similar circumstances, to the investments of its own investors in relation to the establishment, acquisition, expansion, management, conduct, operation, sale or other disposal of investments.

3. Nothing in this Agreement shall be construed to prevent a Party from adopting new requirements affecting investors of the other Party provided that such requirements are non-discriminatory and in accordance with this Agreement.

4. For the sake of clarity, the treatment to be agreed under "similar circumstances" depends on the totality of the circumstances, including whether the relevant treatment distinguishes between investors or investments based on legitimate public interest objectives.

5. For the sake of clarity, this Article shall not be interpreted as obliging a Party to compensate for intrinsic competitive disadvantages resulting from the foreign character of investors and their investments.

Article 6. Most-favored-nation Treatment

1. Each Party shall accord to investors of the other Party treatment no less favorable than that accorded, in similar circumstances, to investors of any third State in connection with the establishment, acquisition, expansion, management, conduct, operation, sale or other disposal of investments in its territory.

2. Each Party shall accord to the investments of investors of the other Party treatment no less favorable than that accorded, in similar circumstances, to investments in its territory by investors of any third State in connection with the establishment, acquisition, expansion, administration, conduct, operation, sale or other disposal of investments.

3. This Article shall not be interpreted as requiring a Party to grant to an investor of another Party or its investments the benefit of any treatment, preference or privilege arising from:

a) investment dispute settlement provisions in an investment agreement or an investment chapter in a trade agreement;

b) any regional economic integration agreement, customs union or common market of which the Party is or becomes a member. For the sake of clarity, the treatment accorded in "like circumstances" depends on the totality of the circumstances, including whether the treatment in question distinguishes between investors or investments on the basis of legitimate public interest objectives.

Article 7. Direct Expropriation

1. In determining the amount of compensation in the event of expropriation, the competent authority of each Party shall follow the provisions of this Article.

2. No Party shall nationalize or expropriate the investments of investors of the other Party unless:

a) for public utility or necessity or when justified by social interest;

b) on a non-discriminatory basis;

c) upon payment of effective compensation, in accordance with paragraphs 2 to 5 of this Article;

d) in accordance with the principle of due process of law.

3. Compensation shall:

a) be paid without undue delay;

b) be equivalent to the fair market value of the expropriated investment immediately before the expropriation takes place ("date of expropriation");

c) not reflect any change in market value due to knowledge, prior to the expropriation date, of the intention to expropriate; and

d) be fully payable and freely transferable in accordance with Article 10.

4. For the avoidance of doubt, when Brazil is the expropriating Party, compensation for the expropriation of property that is not performing a social function may be made in the form of debt securities, in accordance with its laws and regulations, and nothing in this Agreement shall give rise to the interpretation that such form of compensation is incompatible with this Agreement.

5. The compensation to be paid shall not be less than the fair market value on the date of expropriation, plus interest fixed on the basis of market criteria, accrued from the date of expropriation until the date of payment, in accordance with the legislation of the host state.

6. For the sake of clarity, this Agreement only covers direct expropriation, which occurs when an investment is nationalized or otherwise directly expropriated through the formal transfer of title or ownership rights, and does not cover indirect expropriation.

Article 8. Compensation for Losses

1. Investors of a Party whose investments in the territory of the other Party suffer losses due to war or other armed conflict, revolution, state of national emergency, insurrection, disturbance or any other similar event shall enjoy, with respect to restitution, indemnification or other form of compensation, the same treatment as that accorded by the latter Party to its own investors or the treatment accorded to a third Party, whichever is more favorable to the investor affected.

2. Each Party shall provide the investor with restitution, compensation or both, as the case may be, in accordance with Article 6 of this Agreement, in the event that investments suffer losses in its territory, in any of the situations contemplated in paragraph 1 of this Article that result from:

a) requisition of its investment or part thereof by the forces or authorities of the latter Party, or

b) destruction of its investment or any part thereof by the forces or authorities of the latter Party.

Article 9. Transparency

1. Each Party shall ensure that its laws, regulations, procedures and administrative decisions of general application with respect to any matter covered by this Agreement, in particular relating to qualification, licensing and certification, are published in an official gazette and, where possible, in electronic form, in such a way as to enable interested persons of the other Party to become aware of such information.

2. As provided in its laws and regulations, each Party shall:

(a) shall publish any investment-related measure it proposes to adopt;

b) provide reasonable opportunity for interested persons to express their views on such measures.

3. Whenever possible, each Party shall disclose this Agreement to its respective public and private financial agents responsible for the technical assessment of risks and the approval of loans, credits, guarantees and insurance related to investments in the territory of the other Party.

Article 10. Transfers

1. Each Party shall allow the transfer from its territory to the outside and from the outside to its territory of resources

related to an investment to be made freely and without undue delay, after compliance with the obligations established in its domestic legal framework. Such transfers include

a) the contribution to the initial capital or any addition thereto in relation to the maintenance or expansion of the investment;

b) income directly related to the investment, such as profits, interest, capital gains, dividends and royalties;

c) proceeds from the sale or liquidation, in whole or in part, of the investment;

d) payments on any loan, including interest thereon, directly related to the investment; and

e) the amount of compensation.

2. Without prejudice to the provisions of paragraph 1 of this Article, a Party may, in a non-discriminatory manner and in good faith, prevent the making of a transfer if such transfer could be prevented under its laws relating to:

a) bankruptcy, insolvency or protection of creditors' rights;

b) criminal offenses;

c) financial reporting or record-keeping of transfers, when necessary to cooperate with law enforcement authorities or financial regulators; or

d) ensuring compliance with decisions in judicial or administrative proceedings.

3. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining temporary restrictive measures with respect to payments or transfers relating to current transactions in the event of serious balance of payments difficulties and external financial difficulties or threat thereof.

4. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining temporary restrictive measures with respect to payments or transfers relating to capital movements;

a) in the event of serious balance of payments difficulties or external financial difficulties or threat thereof;

b) when, in exceptional circumstances, payments or transfers related to capital movements generate or threaten to generate serious macroeconomic management difficulties.

5. The adoption of temporary restrictive measures relating to transfers in the event of serious balance of payments difficulties described in paragraphs 3 and 4 of this Article shall be non-discriminatory and in accordance with the Agreement Establishing the International Monetary Fund.

Article 11. Tax Measures

1. Nothing in this Agreement shall apply to tax measures, provided that such measures are not applied in such a way as to constitute arbitrary or unjustified discrimination against investors of another Party and their investments or a disguised restriction on such investors and investments.

2. For the sake of clarity, nothing in this Agreement:

a) shall affect the rights and obligations of the Parties derived from a current or future double taxation agreement to which one of the Parties to this Agreement is a party or becomes a party;

b) shall be construed to prevent the adoption of any measure aimed at the equitable and effective imposition and collection of taxes in accordance with the laws of the Parties.

Article 12. Prudential Measures

1. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining prudential measures, such as:

a) the protection of investors, depositors, financial market participants, policy holders, policy beneficiaries or persons with whom any financial institution has a fiduciary obligation;

b) maintaining the safety, soundness, solvency, integrity or financial responsibility of financial institutions; and

c) ensuring the integrity and stability of a Party's financial system.

2. Where such measures are not in accordance with the provisions of this Agreement, they shall not be used as a means of avoiding the commitments or obligations entered into by the Party under this Agreement.

Article 13. Security Exceptions

Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining measures designed to preserve its national security or public order, or from enforcing the provisions of its criminal laws, or from fulfilling its obligations relating to the maintenance of international peace and security in accordance with the Charter of the United Nations.

Article 14. Compliance with Domestic Law

1. The Parties reaffirm and recognize that:

a) Investors and their investments shall comply with all laws, regulations, administrative guidelines and policies of the Party relating to the establishment, acquisition, management, operation and disposal of investments;

b) Investors and their investments shall not, before or after the establishment of an investment, offer, promise or give any undue pecuniary advantage, gratuity or gift, directly or indirectly, to a public servant or government official of a Party as a means of inducing him or her to perform or refrain from performing any official act or to obtain or retain an undue advantage, nor be complicit in inciting, aiding, abetting or conspiring to commit such acts.

c) The investor shall fully and accurately provide the information that, under applicable law, the Parties request about an investment and the investor's corporate history and practices, for the purposes of the decision-making process in relation to the investment or for statistical purposes only.

Article 15. Corporate Social Responsibility

1. Investors and their investments shall strive to achieve the highest possible level of contribution to the sustainable development of the host State and the local community through the adoption of a high degree of socially responsible practices, based on the principles and standards set forth in this Article.

2. Investors and their Investments shall make their best efforts to comply with the following principles and standards for responsible business conduct consistent with the laws adopted by the Host State:

a) contribute to economic, social and environmental progress with a view to achieving sustainable development;

b) respect the internationally recognized human rights of the people involved in the investors' activities;

c) stimulate the generation of local capacities through close collaboration with the local community;

d) foster the formation of human capital, in particular by creating employment opportunities and offering training to employees;

e) refrain from seeking or accepting exemptions not covered by the legal or regulatory framework relating to human rights, the environment, health, security, labor, the tax system, financial incentives or other issues;

f) support and defend the principles of good corporate governance and develop and implement good corporate governance practices;

g) develop and implement self-discipline practices and effective management systems that promote a relationship of mutual trust between investors and the companies in which they operate;

h) promote employees' knowledge of and compliance with company policies through appropriate dissemination, including through training programs;

i) refrain from adopting discriminatory or disciplinary measures against workers who send reports to management or, where appropriate, to the competent public authorities, about practices contrary to the law or company policies;

j) encourage, to the extent possible, its partners, including service providers and contractors, to apply principles of business conduct compatible with the principles set out in this Article;

k) refrain from any undue interference in local political activities.

Article 16. Measures on Investment and the Fight Against Corruption and Illegality

1. Each Party shall adopt measures to prevent and combat corruption, money laundering and the financing of terrorism in relation to the matters covered by this Agreement, in accordance with its laws and regulations.

2. Nothing in this Agreement shall oblige either Party to protect investments made with capital or assets of illicit origin or investments in the establishment or operation of which there is evidence of illegal acts and for which national legislation provides for the penalty of confiscation.

Article 17. Provisions on Investments and the Environment, Labor Affairs and Health

1. Nothing in this Agreement shall be construed to prevent a Party from adopting, maintaining or enforcing any measure it deems appropriate to ensure that investment activities in its territory are carried out in conformity with the labor, environmental or health legislation of that Party, provided that such measure is not applied in a manner that constitutes a means of arbitrary or unjustifiable discrimination or a disguised restriction.

2. The Parties recognize that it is not appropriate to stimulate investment by reducing the requirements of their labour, environmental or health legislation. Therefore, each Party assures that it will not amend or repeal, or offer to amend or repeal, such legislation in order to encourage the establishment, maintenance or expansion of an investment in its territory, to the extent that such amendment or repeal involves the lessening of its labor, environmental or health requirements. If either Party considers that the other Party has offered such an incentive, the Parties shall address the issue through consultations.

Part II. Institutional Governance and Dispute Prevention and Settlement

Article 18. Joint Committee for the Administration of the Agreement

1. For the purposes of this Agreement, the Parties establish a Joint Committee for the administration of this Agreement (hereinafter referred to as the "Joint Committee").

2. The Joint Committee shall be composed of government representatives of both Parties, designated by their respective governments.

3. The Joint Committee shall meet at such times, places and by such means as the Parties may agree. Meetings shall be held at least once a year, with the chairmanship alternating between the Parties.

4. The Joint Committee shall have the following duties and powers:

a) supervise the implementation and execution of this Agreement;

b) discuss investment issues and publicize opportunities for the expansion of mutual investment;

c) to coordinate the implementation of the Agendas for Cooperation and Investment Facilitation, in accordance with Article 26 of the Agreement;

d) consult with the private sector and civil society, where appropriate, on their views on specific issues related to the work of the Joint Committee;

e) seek to resolve any issues or disputes relating to investments by investors of one of the Parties in an amicable manner; and

f) supplement the rules for arbitration disputes between the Parties, if necessary.

The Parties may establish ad hoc working groups, which shall meet jointly with the Joint Committee or separately.

6. The private sector may be invited to join the ad hoc working groups when so authorized by the Joint Committee.

7. The Joint Committee shall draw up its own rules of procedure.

Article 19. National Focal Points or Ombudspersons

1. Each Party shall designate a single body or authority as a National Focal Point or Ombudsperson, whose main function shall be to provide support to the other Party's investors in its territory.

2. In the Federative Republic of Brazil, the National Focal Point or Ombudsperson will be the Direct Investment Ombudsman (0ID) of the Executive Secretariat of the Chamber of Foreign Trade (CAM EX).

3. In the Democratic Republic of São Tomé and Príncipe, the National Focal Point or Ombudsperson will be the Trade and Investment Promotion Agency (APCI).

4. The National Focal Point/Ombudsperson shall, among other duties:

a) seek to comply with the recommendations of the Joint Committee and interact with the National Focal Point of the other Party, in accordance with this Agreement;

b) follow up on requests and consultations from the other Party or the other Party's investors with the competent authorities and inform the interested parties of the results of their suggestions;

c) evaluate, in consultation with the competent government authorities, suggestions and complaints received from the other Party or investors of the other Party and recommend, where appropriate, actions to improve the investment environment;

d) seek to prevent investment disputes, in coordination with relevant government authorities and private entities;

e) provide timely and useful information on regulatory issues related to investments in general or to specific projects; and

f) report to the Joint Committee on its activities and actions, where appropriate.

5. The National Focal Points or Ombudspersons shall cooperate with each other and with the Joint Committee with a view to assisting in the prevention of disputes between the Parties.

6. Each Party shall determine the deadlines for the implementation of each of its duties and responsibilities, which shall be communicated to the other Party.

Article 20. Exchange of Information between the Parties

1. The Parties shall exchange information, whenever possible and relevant to reciprocal investments, regarding business opportunities and procedures and requirements for investments, in particular through the Joint Committee and their National Focal Points.

2. To this end, upon request, a Party shall provide, in a timely manner and respecting the applicable level of protection, information on, in particular, the following matters:

a) regulatory conditions for investments;

b) government programs and possible incentives related to them;

c) public policies and regulatory frameworks that may affect investments;

d) legal framework for investments, including legislation on the establishment of companies and joint ventures;

e) relevant international treaties;

f) customs procedures and tax regimes;

g) statistical information on markets for goods and services;

h) available infrastructure and public services;

i) government procurement and public concessions;

j) social and labor legislation;

k) migration legislation;

l) foreign exchange legislation;

m) legislation relating to specific economic sectors previously identified by the Parties;

n) regional investment projects and agreements; and

o) Public-Private Partnerships (PPPs).

Article 21. Treatment of Protected Information

1. Each Party shall respect the level of protection of information established by the Party that provided the information, in accordance with its respective legislation on the matter.

2. Nothing in this Agreement shall be construed to require either Party to provide protected information the disclosure of which would compromise compliance with the law or otherwise be contrary to the public interest or violate privacy or legitimate business interests. For the purposes of this paragraph, protected information includes trade secret information or information considered privileged or protected from disclosure under the applicable laws of a Party.

Article 22. Interaction with the Private Sector

Recognizing the fundamental role played by the private sector, the Parties shall disseminate, among the relevant business sectors, information of a general nature on investments, regulatory frameworks and business opportunities in the territory of the other Party.

Article 23. Cooperation between Agencies Responsible for Investment Promotion

The Parties shall promote cooperation between their investment promotion agencies with a view to facilitating investments in the territory of the other Party.

Article 24. Dispute Prevention Procedures

1. If a Party considers that a specific measure adopted by the other Party constitutes a violation of this Agreement, it may invoke this Article to initiate a dispute settlement procedure within the Joint Committee.

2. The following rules shall apply to the above-mentioned procedure:

a) to initiate the procedure, the Party concerned shall submit a written request to the other Party, in which it shall identify the specific measure at issue and state the findings of fact and conclusions of law underlying the allegation. The Joint Committee shall meet within sixty (60) days from the date of the request;

b) The Joint Committee shall have sixty (60) days from the date of the first meeting, which may be extended by mutual agreement, to evaluate the allegation and prepare a report;

c) The report of the Joint Committee shall include:

i) the identification of the Party that alleged the violation;

ii) a description of the measure in question and the alleged violation of the Agreement; and

iii) the conclusions of the Joint Committee. In the event that the dispute is not resolved after the expiration of the time limits set forth in this Article or a Party does not participate in the meetings of the Joint Committee convened in accordance with this Article, the dispute may be submitted by a Party to arbitration in accordance with Article 25 of this Agreement.

3. If the measure in question concerns a specific investor, the following additional rules shall apply:

a) the initial claim shall identify the affected investor;

b) representatives of the affected investor may be invited to appear before the Joint Committee.

4. Where relevant to the consideration of the measure in question, the Joint Committee may invite other interested parties to appear before the Joint Committee and present their views on the measure.

5. The minutes of the meetings held under the Dispute Settlement Procedure and all related documentation shall be kept confidential, with the exception of the report submitted by the Joint Committee pursuant to paragraph 2, subject to each Party's legislation on the disclosure of information.

Article 25. Settlement of Disputes between the Parties

1. Once the procedure provided for in paragraph 2 of Article 24 has been exhausted and the dispute has not been resolved, either Party may submit it to an ad hoc Arbitral Tribunal in accordance with the provisions of this Article. Alternatively, the Parties may agree to submit the dispute to a permanent arbitral institution for the settlement of investment disputes. Unless the Parties decide otherwise, this institution shall apply the provisions of this Article.

2. The purpose of the arbitration is to determine the conformity with this Agreement of a measure claimed by a Party to be inconsistent with this Agreement.

3. Article 13 (Security Exceptions), Article 14 (Internal Law), Article 15 (Corporate Social Responsibility), paragraph 1 of Article 16 (Measures on Investments and the Fight against Corruption and Illegality) and paragraph 2 of Article 17 (Provisions on Investments and the Environment, Labor Affairs and Health) shall not be subject to arbitration.

4. This Article shall not apply to any dispute concerning any facts occurred or any measures adopted before the entry into force of this Agreement.

5. This Article shall not apply to any dispute if more than five (5) years have elapsed from the date on which the Party knew or should have known of the facts giving rise to the dispute.

6. The Arbitral Tribunal shall be composed of three arbitrators. Each Party shall appoint, within three (3) months of receiving the "notice of arbitration", one member of the Arbitral Tribunal. The two members shall, within a period of three (3) months from the appointment of the second arbitrator, appoint a national of a third State with which both Parties maintain diplomatic relations, who, after approval by both Parties, shall be appointed Chairman of the Arbitral Tribunal. The appointment of the President must be approved by the Parties within one (1) month from the date of his appointment.

7. If, within the time limits specified in paragraph 6 of this Article, the necessary appointments have not been made, either Party may request 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 one of the Parties or is prevented from exercising that function, the most senior member of the International Court of Justice who is not a national of either Party shall be invited to make the necessary appointments.

8. The Arbitrators shall:

a) have the necessary experience or expertise in public international law, international rules on investment or international trade, or in the settlement of disputes relating to international investment agreements;

b) be independent and not linked, directly or indirectly, to any of the Parties or the other arbitrators or potential witnesses, nor receive instructions from the Parties; and

c) comply with the World Trade Organization's "Rules of Conduct for Understanding Dispute Rules and Procedures" (WTO/DSB/RC/1, dated 11/12/1996), as applicable to the dispute or any other standard of conduct established by the Joint Committee.

9. The "Notice of Arbitration" and other documents related to the settlement of the dispute shall be submitted to the places to be designated by each Party.

10. The Arbitral Tribunal shall determine its own procedures, in consultation with the Parties and in accordance with this Article and, in the alternative, to the extent not in conflict with this Agreement, with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) in force on the date of entry into force of this Agreement. The Arbitral Tribunal shall make its decision by majority vote and shall decide on the basis of the provisions of this Agreement and the principles and rules of international law recognized by both Parties. Unless otherwise agreed, the decision of the Arbitral Tribunal shall be rendered within nine (9) months, extendable by ninety (90) days after the appointment of the Chairman, in accordance with paragraphs 6 and 7 of this Article.

11. The decision of the Arbitral Tribunal shall be final and binding on the Parties, who shall comply with it without delay.

12. The Joint Committee shall adopt the general rule for fixing the remuneration of arbitrators, taking into account the practices of relevant international organizations. The Parties shall bear the expenses of the arbitrators and other costs of the procedure, unless otherwise decided.

13. Without prejudice to paragraph 2 of this Article, the Parties may request, by means of a specific arbitration agreement, that the arbitrators examine the existence of damage caused by the measure in question in accordance with this Agreement

and that they establish, by means of an award, compensation for such damage. In this case, in addition to the provisions of the preceding paragraphs of this Article, the following provisions shall be observed:

a) the arbitral commitment to examine damages shall be equivalent to the "Notice of Arbitration" within the meaning of paragraph 9 of this Article.

b) this paragraph shall not apply to a dispute relating to a specific investor which has been previously resolved and in which there is res judicata protection. If an investor has submitted to local courts or to an arbitration tribunal of the Host State a claim on the measure questioned in the Joint Committee, the arbitration examining damages may only be initiated after the investor has waived its claim before local courts or arbitration tribunal of the Host State. If, after the arbitration has been established, it comes to the attention of the arbitrators or the Parties that there are claims before local courts or arbitral tribunals concerning the disputed measure, the arbitration shall be suspended.

c) if the arbitral award establishes monetary compensation, the Party wishing to receive such compensation shall transfer it to the holders of the investment rights in question, after deducting the costs of the dispute, in accordance with the internal procedures of each Party. The Party whose claims are upheld may request the Arbitral Tribunal to order the transfer of compensation directly to the holders of the investment rights affected and the payment of costs to those who have borne them.

Part IV. Agenda for Investment Cooperation and Facilitation

Article 26. Agenda for Investment Cooperation and Facilitation

1. The Joint Committee shall develop and discuss an Agenda for Investment Cooperation and Facilitation on issues relevant to the promotion and improvement of the bilateral investment environment.

2. The issues to be initially dealt with by the Parties shall be agreed at the first meeting of the Joint Committee.

3. As a result of the discussions within the Joint Committee on Investment Cooperation and Facilitation, the Parties may adopt additional specific commitments.

Part V. Final Provisions

Article 27. Amendments

1. This Agreement may be amended at any time at the request of either Party. The Party requesting the adoption of an amendment shall submit its request in writing, in which it shall explain the reasons for the amendment. The other Party shall hold consultations with the Requesting Party regarding the proposed amendment and shall also respond in writing to the request.

2. Any agreement to amend this Agreement must be expressed in writing, either in a single instrument or through an exchange of diplomatic notes. Such amendments shall be binding on tribunals established under Article 25 of this Agreement, and the award of the tribunal shall be consistent with all amendments to this Agreement.

3. The amendments shall enter into force in accordance with the procedure laid down in the third paragraph of Article 28.

Article 28. Final Provisions

1. Neither the Joint Committee nor the Focal Points or Ombudspersons may replace or prejudice in any way any other agreement or diplomatic channel existing between the Parties.

2. Without prejudice to its regular meetings, after ten (10) years from the entry into force of this Agreement, the Joint Committee will conduct a general review of its implementation and make recommendations for possible amendments, if necessary.

3. This Agreement shall enter into force ninety (90) days after the date of receipt of the second diplomatic note indicating that all necessary internal procedures relating to the conclusion and entry into force of international agreements have been completed by both Parties.This Agreement shall remain in force for a period of ten (10) years and may be tacitly extended for an equal period.

4. Either Party may terminate this Agreement at any time, provided that it does so by giving written notice through diplomatic channels to the other Party. Termination shall take effect on a date to be agreed by the Parties or, if the Parties are unable to reach agreement, three hundred and sixty-five (365) days after the date on which the notice of termination is delivered.

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

Done at São Tomé, on August 27, 2023, in two copies in the Portuguese language, both texts being equally authentic.

FOR THE FEDERATIVE REPUBLIC OF BRAZIL

Mauro Vieira

Minister of State for Foreign Affairs

FOR THE DEMOCRATIC REPUBLIC OF SÃO TOMÉ AND PRÍNCIPE

Gareth Haddad do Espírito Santo Guadalupe Minister for Foreign Affairs, Cooperation and Communities