AGREEMENT FOR THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS BETWEEN THE REPUBLIC OF COSTA RICA AND THE REPUBLIC OF VENEZUELA

Article 1. Definitions

For the purposes of this Agreement

1. The term "investor" means any natural or juridical person of a Contracting Party making an investment in the territory of the other Contracting Party.

a) The term "natural person of a Contracting Party" means any natural person having the nationality of that Contracting Party in accordance with its legislation.

b) The term "legal person of a Contracting Party" means any legal entity, including companies, corporations, partnerships, branches and any other organization constituted under the law of that Contracting Party, having its seat or domicile in the territory of that Contracting Party, whether or not its activity is for profit.

2. The term "investments" includes all kinds of property and rights invested by an investor of one Contracting Party in the territory of the other Contracting Party. These include

a) Property and all other rights in rem in movable or immovable property such as mortgages, pledges, usufructs and similar rights.

b) Shares, social quotas, securities, obligations and any other form of participation in companies of any kind.

c) Credit rights derived from any type of contract directly related to an investment.

d) Intellectual property rights, including, among others, copyrights, related rights and industrial property rights, such as trademarks, geographical indications, drawings, industrial models and patents.

e) Concessions and other rights granted under public law either by law or by virtue of a contract, in particular those related to the prospecting, cultivation, extraction or exploitation of natural resources.

3. Any change in the form in which the assets are invested shall not affect their qualification as investment.

4. The term "territory" means the land territory, airspace, and territorial sea of each of the Contracting Parties as well as the exclusive economic zone and the continental shelf extending beyond the limit of the territorial sea of each of the Contracting Parties over which they have or may have, in accordance with international law, jurisdiction and sovereign rights for the purpose of exploitation, exploration and preservation of natural resources.

Article 2. Promotion and Admission

1. Each Contracting Party shall promote and create favorable conditions for the realization of investments in its territory by investors of the other Contracting Party and shall admit such investments in accordance with its legal provisions.

2. For the purpose of increasing investment flows, each Contracting Party shall endeavor, at the request of the other Contracting Party, to inform the latter of investment opportunities in its territory.

3. When a Contracting Party has admitted an investment in its territory, it shall facilitate the obtaining, in accordance with its laws and regulations, of the necessary permits in connection with such investment as well as those required for the execution of licensing, technical, commercial or administrative assistance contracts.

Article 3. Protection

Each Contracting Party shall, in accordance with the rules and standards of international law, accord to investments of

investors of the other Contracting Party fair and equitable treatment and full protection and shall refrain from hindering by arbitrary or discriminatory measures their maintenance, management, use, enjoyment, expansion, sale or liquidation.

Article 4. National Treatment and Most-favoured-nation Clause

1. The treatment accorded by each Contracting Party to investments of investors of the other Contracting Party, once admitted in accordance with its legislation, shall not be less favorable than that accorded to investments of its own investors or of investors of any third State.

2. This treatment shall not extend, however, to privileges granted by a Contracting Party to investors of a third State by virtue of its association or participation in existing or future agreements relating to a free trade area, customs union, common market, economic and monetary union or other institutions of similar economic integration.

3. The treatment granted under this Article shall not extend to deductions, tax exemptions or other similar privileges granted by any of the Contracting Parties to the investment of investors of third countries under an agreement for the avoidance of double taxation or any other taxation agreement.

4. Between national treatment and most-favored-nation treatment, each Contracting Party shall apply the treatment that is most favorable to the investor's investment.

Article 5. Expropriation

1. Neither Contracting Party shall expropriate investments of investors of the other Contracting Party, nor apply to them measures tantamount to expropriation, unless it is in the public interest, in accordance with law, in a non-discriminatory manner and by means of prompt, adequate and effective compensation.

2. Compensation shall be equivalent to the fair price that the expropriated investment had immediately prior to the time the expropriation was announced or became public knowledge, whichever is earlier. The compensation shall include the payment of interest until the date of payment calculated on the basis of usual commercial criteria, shall be paid without delay, in convertible currency and shall be effectively realizable and freely transferable.

3. The affected investor shall be entitled, in accordance with the law of the Contracting Party carrying out the expropriation, to a prompt review by the judicial or other competent authority of such Contracting Party of its case to determine whether the expropriated investment and the amount of compensation have been adopted in accordance with the principles set forth in this Article.

Article 6. General Exceptions

In the event that access to any foreign market of any good produced in the territory of a Contracting Party is subject to a quantitative limitation, the distribution of the corresponding export quotas made by that Contracting Party shall not be subject to the provisions of this Agreement.

Article 7. Compensation for Losses

Investors of a Contracting Party whose investments in the territory of the other Contracting Party suffer losses due to war, other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot or other similar circumstances, shall be accorded, by way of restitution, indemnification, compensation or other arrangement, treatment no less favorable than that which the latter Contracting Party accords to the investments of its own investors to the investments of investors of any third State, whichever is more favorable to the investment of the investor affected.

Article 8. Transfers

1. Each Contracting Party shall permit transfers to investors of the other Contracting Party of all payments related to their investments and in particular, but not exclusively, the following:

a) the initial capital and additional sums necessary for the maintenance, expansion and development of the investment;

b) the funds necessary for the repayment of loans linked to an investment;

c) the indemnities provided for in Articles V and VI;

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

e) payments resulting from the settlement of disputes.

2. The transfers referred to in this Agreement shall be made in freely convertible currency at the exchange rate in effect on the day of transfer. The Contracting Parties undertake to facilitate the completion of the formalities necessary to effect such transfers without delay. In particular, no more than three months shall elapse from the date on which the investor has duly submitted the request necessary to effect the transfer until the date on which such transfer is actually effected.

3. Notwithstanding the provisions of this Article, the Contracting Parties may prevent transfers through the equitable and non-discriminatory application of their legislation in the following cases:

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

b) non-compliance with regulations relating to securities issuance, trading and operations;

c) criminal or administrative offenses;

d) non-compliance with the rules referring to currency transfer reports or other monetary instruments;

e) guarantee of compliance with judgments or awards rendered in contentious proceedings; or

f) establishment of the necessary instruments or mechanisms to ensure the payment of income taxes by such means as the withholding of the amount related to dividends or other concepts.

4. Notwithstanding the provisions of the first paragraph of this Article, each Contracting Party shall have the right, in circumstances of exceptional or serious balance of payments difficulties, to limit transfers temporarily, on an equitable and non-discriminatory basis, in accordance with internationally accepted criteria. Limitations adopted or maintained by a Contracting Party in accordance with this paragraph, as well as their elimination, shall be promptly notified to the other Contracting Party.

Article 9. More Favourable Conditions

If the legal provisions of one of the Contracting Parties, or obligations arising under international law outside this Agreement, present or future, between the Contracting Parties, result in a general or special regulation under which investments of investors of the other Contracting Party are to be accorded more favorable treatment than that provided for in this Agreement, such regulation shall prevail over this Agreement, to the extent that it is more favorable.

Article 10. Subrogation

The Contracting Party, or the duly authorized public or private entity of that Contracting Party, which indemnifies an investor under an insurance or other guarantee to cover non-commercial risks in connection with its investment in the territory of the other Contracting Party, shall be subrogated to the rights accruing to the investor under this Agreement.

Article 11. Settlement of Disputes between an Investor of One Contracting Party and the other Contracting Party

1. Any dispute arising between an investor of a Contracting Party and the other Contracting Party concerning compliance with the provisions of this Agreement in relation to its investment shall, to the extent possible, be settled by amicable agreement.

2. If the dispute cannot be settled in this manner within six months from the date on which the investor has notified the dispute in writing, including detailed information, the investor may submit the dispute to the competent courts of the Contracting Party in whose territory the investment was made, or to arbitration proceedings in accordance with the following provisions:

a) to the International Centre for Settlement of Investment Disputes (ICSID) established by the "Convention on the Settlement of Investment Disputes between States and Nationals of other States", opened for signature at Washington on March 18, 1965, when each State party to this Agreement has acceded to that Convention;

b) in the event that one of the Contracting Parties ceases to be a Contracting State to ICSID, the dispute shall be settled under the Additional Facility for the Administration of Conciliation, Arbitration and Fact-Finding Proceedings by the ICSID Secretariat;

c) to an ad hoc arbitral tribunal established in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), in the event that both Contracting Parties cease to be ICSID Contracting States.

3. Once the investor has referred the dispute to the competent court of the Party in whose territory the investment was made or to an arbitral tribunal, the choice of one or the other procedure shall be final.

4. The arbitration shall be based on:

a) the provisions of this Agreement and those of other agreements concluded between the Contracting Parties;

b) the national law of the Contracting Party in whose territory the investment has been made, including the rules relating to conflicts of law and to the terms of any special agreements concluded in connection with the investment, and

c) the universally recognized rules and principles of international law.

5. In any case, the arbitral award shall be limited to determining whether the Contracting Party has breached this Agreement, whether such breach has caused damage to the investor and, if so, the amount of the corresponding compensation.

6. Arbitral decisions shall be final and binding on the Parties to the dispute. Each Contracting Party undertakes to enforce the awards in accordance with its national legislation.

7. The Contracting Parties may not deal through diplomatic channels with matters related to disputes submitted to judicial proceedings or to international arbitration, in accordance with the provisions of this Article, until the corresponding proceedings are concluded. Once the judicial proceedings or international arbitration, as the case may be, have been concluded, a Contracting Party shall not take any diplomatic action in connection with the dispute, except in the event that the disputing Party has not complied with the judgment of the court or the decision of the arbitral tribunal.

Article 12. Settlement of Disputes between Contracting Parties

1. Any dispute arising between the Contracting Parties concerning the interpretation or performance of this Agreement shall be settled, to the extent possible, through diplomatic channels.

2. If the dispute cannot be settled in this way within 6 months of the commencement of negotiations, it shall, at the request of either Contracting Party, be submitted to an arbitral tribunal.

3. The arbitration tribunal shall be constituted as follows: each Contracting Party shall appoint one arbitrator and these two arbitrators shall choose a citizen of a third State as chairman. The arbitrators shall be appointed within three months, and the chairman within five months, from the date on which either Contracting Party informs the other Contracting Party of its intention to submit the dispute to an arbitral tribunal.

4. If the necessary appointments have not been made within the time limits provided for in paragraph 3 of this Article, either Contracting Party may, in the absence of other agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President of the International Court of Justice is unable to perform such function or is a national of any of the Contracting Parties, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is unable to perform such function or is a national of any of the Contracting Parties, the designations shall be made by the Member of the International Court of Justice next in seniority who is not a national of any of the Contracting Parties.

5. The arbitral tribunal shall render its decision on the basis of the rules contained in this Agreement or in other agreements in force between the Contracting Parties, and on the universally recognized principles of international law.

6. Except to the extent that the Parties agree otherwise, the tribunal shall determine its own procedure.

7. Each Party shall bear the expenses and fees of the arbitrator whose appointment corresponds to it and those related to its representation in the arbitration proceedings. The fees and expenses of the chairman and other expenses of the tribunal shall be borne equally by the Contracting Parties.

Article 13. Application, Duration, Extension and Denunciation

1. This Agreement shall apply to investments of investors of one Contracting Party in the territory of the other Contracting Party made before or after its entry into force. However, in no case shall this Agreement have retroactive effect, nor shall it be applicable to disputes arising out of facts or acts occurring prior to its entry into force.

2. The term of this Agreement shall be ten years. Once this term has expired, it shall remain in force indefinitely, unless one of the Contracting Parties notifies the other in writing, twelve months in advance, of its decision to terminate it. In the event of termination of this Agreement, its provisions shall continue to apply for an additional period of ten years to investments made prior to the notification referred to in this paragraph.

3. The Contracting Parties shall notify each other of the completion of their respective internal procedures for the entry into force of this Agreement, which shall enter into force upon the second such notification.

Signed in Caracas, Venezuela, on March 17, 1997, in two copies in the Spanish language, both texts being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA

Fernando Naranjo Villalobos

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