AGREEMENT BETWEEN THE GOVERNMENT OF THE FEDERAL REPUBLIC OF BRAZIL AND THE GOVERNMENT OF THE REPUBLIC OF CUBA FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the Federative Republic of Brazil and the Government of the Republic of Cuba (hereinafter referred to as the "Contracting Parties"),

Encouraged by the desire to create conditions conducive to greater economic cooperation and in particular to reciprocal investments that generate the transfer of capital from one country to the territory of the other;

Whereas maintaining a satisfactory investment environment under the laws of the recipient country is the best way to establish and maintain an adequate international flow of capital; and

Recognizing that the conclusion of an Agreement for the promotion and reciprocal protection of foreign investments against non-commercial risks could help to stimulate the business initiatives that favor the prosperity of the two countries;

Have agreed as follows:

Article 1. Definitions

1. For the purposes of this Agreement, it is understood that:

I. The term "investors" means:

a) Natural persons having the nationality of the Contracting Party from which the investment originates, in accordance with their domestic law;

b) Legal entities, including companies, commercial companies and other entities constituted under the law of the Contracting Party from which the investment originates and which have their principal place of business in the territory of that Party;

II. The term "investments" means all types of assets, such as assets and rights of any kind, acquired or exercised in accordance with the law of the Party receiving the investment, and in particular, but not exclusively, the following:

a) shares and other forms of participation in companies;

b) rights derived from any kind of contribution made for the purpose of creating economic value, including loans directly linked to a specific investment, whether or not they have been capitalized;

c) movable and immovable property, as well as real rights, such as mortgages, usufruct and similar rights;

d) rights to carry out economic and commercial activities granted by law or under contract, in particular, those related to exploration, cultivation, extraction or exploitation of natural resources;

e) rights relating to intellectual property, Including express patents and trademarks, as well as manufacturing and know-how
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III. The term "investment income or gains" means income derived from an investment, including profits, capital gains, dividends and interest.

IV. The term "territory" means the territories under the sovereignty of each of the Contracting Parties, as defined in their respective domestic laws, and includes, in addition to the areas bounded by land and island boundaries, also the territorial sea, the continental shelf and the exclusive economic zone, as well as any other maritime area, including seabed and subsoil, insofar as in those areas the Contracting Party, in accordance with international law and its internal rules, has rights

with respect to the use of natural resources.

2. No change in the manner in which the assets and capitals have been invested or reinvested will affect their investment condition under this Agreement.

Article 2. Promotion and Admission

1. Each Contracting Party shall, to the extent possible, encourage investments to be made in its territory by investors of the other Contracting Party and shall admit such investments in accordance with the provisions of its legislation.

2. Each Contracting Party shall, in accordance with its legislation, grant the required authorizations for the realization of such investments and shall permit manufacturing license, technical, commercial, financial and administrative assistance contracts and shall grant the required authorizations for the activities of contracted professionals or consultants by investors of the other Contracting Party.

Article 3. Protection and Treatment

1. Each Contracting Party shall protect in its territory investments made in accordance with its legislation by investors of the other Contracting Party and shall not impede, through unjustified or discriminatory measures, the management, maintenance, use, usufruct, the extension, sale or, where applicable, liquidation of such investments.

2. Each Contracting Party shall give non-discriminatory, fair and equitable treatment, in accordance with the principles of international law, to investments made by investors of the other Contracting Party in its territory, and shall ensure that there are no obstacles to the exercise of the rights thus recognized.

3. Each Contracting Party shall accord to the investments of the other Contracting Party treatment no less favorable than that accorded to the investment which its nationals or the investors of any third country undertake in accordance with the national legislation governing foreign investment.

4. The treatment referred to in the second paragraph of this Article shall not be less favorable than that accorded by one Contracting Party to investments in its territory by investors from a third country.

5. Such treatment shall not, however, extend to the concessions of one Contracting Party to investors of a third country as a result of its participation in a free-trade area, customs union, common market or regional integration agreement.

6. The treatment referred to in this Article shall not extend to tax reductions, tax exemptions and other similar incentives granted by a Contracting Party to investors from third countries derived from an agreement to avoid double taxation of income or from any other agreement in Tax matters.

Article 4. Nationalization, Expropriation and Indemnity

1. The Contracting Parties shall not take any action that directly or indirectly deprives the investor of the other Contracting Party of an investment.

2. Nationalization, expropriation or any other measure of similar characteristics or effects shall not be adopted unless the following conditions are met:

i. Are determined by reason of public utility or national interest, according to the law;

ii. Are taken on a non-discriminatory basis; and

iii. Be accompanied by provisions for the payment of immediate, adequate and effective indemnity, in accordance with the legislation of the Contracting Party to which the indemnification corresponds;

3. The above indemnification shall be based on the market value of the affected investments on a date immediately prior to the date on which the nationalization or expropriation measure has been made public, and may be appealed through ordinary judicial proceedings, on a no less favorable basis Than those granted to investors in any third country. In the event of any delay in the payment of the indemnity, its value will be increased with interest with the purpose of keeping it up to date, starting from the date of expropriation or loss, until the date of payment.

4. Investors of one of the Contracting Parties whose investments in the territory of the other Contracting Party suffer losses due to any armed conflict, such as war, national state of emergency, civil disturbance or other similar events occurring in that territory, shall receive from this other Contracting Party treatment Not less favorable than that granted by it to national

investors or to any third country in respect of measures of redress, compensation, compensation or other agreement.

Article 5. Transfer

1. Each Contracting Party shall permit the free transfer of payments related to investments made in its territory by investors of the other Contracting Party, in particular, but not exclusively:

a) The initial capital and any additional capital destined to the maintenance or extension of an investment:

b) The income or gains relating to the investment, as defined in Article I;

c) The indemnification provided for in Article IV and the payments that must be made as a result of the provisions of Article 8;

d) The proceeds from the sale or liquidation, in whole or in part;

e) Loan repayments;

f) The net income of the salaries of personnel related to the investment and contracted abroad;

2. Transfers shall be made without delay once the relevant legal and regulatory procedures in force in the territory of the Contracting Party in which the investment has been made have been completed by the investor.

3. Transfers shall be authorized in the currency in which the investment was made or in any other convertible currency agreed by the Contracting Parties.

Article 6. Principle of Subrogation

1. If a Contracting Party or an agency which it has designated makes payment to an investor as a result of a guarantee or insurance contracted to cover non-commercial risks relating to an investment, the Contracting Party in whose territory the investment was made shall recognize the validity of the sub- - in favor of the first Contracting Party or its agency, in respect of any right or title of the investor which enables it to obtain the corresponding pecuniary reimbursement.

Article 7. Settlement of Disputes between the Contracting Parties

1. Disputes and disputes arising between the Contracting Parties arising out of the application or interpretation of this Agreement shall be resolved amicably.

2. If the dispute can not be resolved in this way within a period of six months counted from the beginning of the negotiations, it may be submitted to an Arbitral Tribunal by either Contracting Party.

3. This Arbitral Tribunal shall be constituted as follows: each Contracting Party shall designate one arbitrator and these two arbitrators shall elect a national of a third State as President. The arbitrators shall be appointed within a period of three months and the President within five months from the date on which either Contracting Party has informed the other of its intention to submit the dispute to an Arbitral Tribunal.

4. If one of the Contracting Parties has not appointed its arbitrator within the prescribed period, the other Contracting Party may request the President of the International Court of Justice to do so. In the event that the two arbitrators designated by the Contracting Parties fail to reach an agreement for the designation of the third arbitrator within the time limit, either Contracting Party may request the President of the International Court of Justice to make such designation. In case the President of the International Court of Justice is a national of one of the Contracting Parties, or is otherwise impeded, the Vice-President of that Court shall be invited to make the appointments. If the Vice-President is also a national of one of the Contracting Parties or is also impeded, it shall be for the member of the Court to immediately follow him in the order of precedence to make such appointments.

5. The Arbitral Tribunal shall issue its award on the basis of the Law, the provisions contained in this Agreement or in other Agreements in force between the Contracting Parties and in the universally recognized principles of International Law.

6. Unless the Contracting Parties decide otherwise, the Arbitral Tribunal shall establish its own procedures.

7. The Arbitral Tribunal shall adopt its decisions by a majority of votes and the Contracting Parties shall be bound by them.

8. Each Contracting Party shall be responsible for expenses relating to the arbitrator appointed by it and those relating to its representation in arbitral proceedings. Other expenses, including those relating to the President of the Arbitral Tribunal,

shall be shared equally between the Contracting Parties.

9. The Contracting Parties agree to submit to the decision of the Arbitral Tribunal and shall take all necessary measures to give full effect to the respective arbitral award.

Article 8. Settlement of Disputes between the Receiving State and the Investor

1. Any disputes or disputes arising under this Agreement between one Contracting Party and the investor of the other Contracting Party shall, as far as possible, be settled by mutual consultations between the two Contracting Parties.

2. If the dispute can not be settled amicably within six months from the start of such consultations, the investor may choose to:

i. To the competent courts of the Contracting Party in whose territory the investment was made; or

ii. To international arbitration under the conditions described in paragraph 4 of this Article.

3. The choice of one of these two routes will be final and irreversible.

4. In the case of an option to resort to international arbitration, the dispute shall be submitted to an ad hoc Arbitration Tribunal established in accordance with the International Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), adopted by Resolution 31 / 98 of the General Assembly of December 15, 1976. The Arbitral Tribunal shall consist of three arbitrators - one designated by the Contracting Party in whose territory the investment was made, one designated by the other Party to the proceeding and a third arbitrator, who shall preside over the Tribunal , Designated by the two referees thus selected. If the third arbitrator is not appointed within thirty days of the appointment of the other two arbitrators, his appointment shall be assigned to the President of the Arbitration Tribunal of the International Chamber of Commerce in Paris.

5. The Arbitral Tribunal shall, on the basis of the provisions of this Agreement, decide on the law of the Contracting Party in whose territory the investment was made - including conflict-of-law rules - and under any particular agreement relating to the investment, Concerning the matter.

6. Arbitral awards shall be final and binding on the parties to the dispute and shall be enforced in accordance with national law.

Article 9. Scope of Application

This Agreement shall apply to investments made by investors of one Contracting Party before or after its entry into force in the territory of the other Contracting Party in accordance with the latter's legal provisions. This Agreement shall not, however, apply to disputes or disputes which arose prior to its entry into force.

Article 10. Consultation

The representatives of the Contracting Parties shall, whenever necessary, hold consultative meetings on any matter relating to the implementation of this Agreement. These meetings shall be held on a proposal from the Contracting Parties, in places and dates agreed through the diplomatic channel.

Article 11. Entry Into Force, Extension and Termination

1. Each Contracting Party shall notify the other of the fulfillment of its internal legal requirements necessary for the entry into force of this Agreement, which shall be given thirty days after receipt of the second notification.

2. This Agreement shall remain in force for an initial period of ten (10) years and shall be tacitly extended for successive periods of five (5) years. After the initial period of 10 (ten) years, this Agreement may be denounced in writing, through diplomatic channels, at any time by either Party, in advance of twelve (12) months.

3. In the case of a complaint, the provisions set out in Articles 1 to 10 of this Agreement shall continue to apply for a period of 10 (ten) years to all investments made prior to their notification.

Done in Brasilia, on June 26, 1997, in two original copies, in the Portuguese and Spanish languages, both texts being equally

authentic.