AGREEMENT BETWEEN THE KINGDOM OF MOROCCO AND THE PORTUGUESE REPUBLIC CONCERNING RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Portuguese Republic and the Kingdom of Morocco, designated hereinafter as the "Parties";

Desiring to enhance economic cooperation between the two countries;

Recognizing the important role of foreign private investment in the process of economic development and the right of each Party to determine the role and to define the conditions under which foreign investment may participate in this process;

Recognizing that the only way to establish and maintain an appropriate international capital flows shall maintain an investment climate mutually satisfactory, and, in the case of foreign investors to respect the sovereignty and the laws of the host State having jurisdiction over them to act in a manner consistent with the policies and priorities adopted by the host country and endeavour to contribute to its development;

In order to create and maintain favourable conditions for investment capital in both States and intensify cooperation between nationals and companies, private or public law of both States, particularly in the fields of technology, industrialization and productivity;

Recognizing the need to protect investments of nationals and companies of both States and fostering the transfer of capital with a view to promoting economic prosperity of both States;

Desiring to adapt the agreement between the Portuguese Republic and the Kingdom of Morocco concerning the reciprocal promotion and protection of investments, signed in Rabat on 18 October 1988 to new realities;

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investments" refers to all categories of assets invested by investors of one Party in the territory of the other Party in accordance with the law in force in the territory of the latter Party, including in particular, but not exclusively:

a) Ownership of movable and immovable property, as well as any other real rights such as mortgages, liens, usufruct and similar rights;

b) Shares and other forms of participation in companies and / or economic interests arising from the respective activities associated with an investment;

c) The rights of credit or other rights having an economic value;

d) Copyrights, industrial property rights, such as patents, trademarks, industrial designs, know-how, trade names and goodwill;

e) Concessions or other rights conferred by law, under the terms of a contract or an administrative act, issued by the competent governmental authority, including extract concessions to search for or exploit natural resources;

f) Goods which, within the framework of and in accordance with the respective legislation and rental agreements, are made available to a lessor within the territory of a Party.

Any change in the legal form in which the investments were made shall not affect their character as investments provided that such change is in accordance with the laws and regulations in force in the Party in whose territory the investment has

been made.

2. The term "investor" means:

a) Natural persons having the nationality of either Party in accordance with the law of that Party and making an investment in the territory of the other Party; and

b) Legal entities, including companies, corporations or corporations or other associations having their seat in the territory of one of the two Parties, and constituted in accordance with the law of that Party.

3. The term "returns" means the amounts yielded by investments for a specified period, including, in particular, though not exclusively, profits, interest, dividends, royalties and payments in respect of technical assistance or other amounts made in connection with the investment.

If the investment income in the definition provided above, be reinvested in accordance with the law in force in the host country, income arising from this reinvestment shall also be considerés as income of the initial investment. The returns of the investment shall enjoy the same protection granted to investments.

4 . The term "territory" means:

a) For the Portuguese Republic, the territory of the Portuguese Republic, including its internal waters, territorial sea or any other area over which the Portuguese Republic exercises its sovereignty or sovereign rights or jurisdiction in accordance with international law.

b) For the Kingdom of Morocco, the territory of the Kingdom of Morocco including any maritime area situated beyond the territorial waters of the Kingdom of Morocco and which has been or may be designated under the laws of the Kingdom of Morocco, in accordance with international law as an area within which the Kingdom of Morocco in the exercise of the rights related to the sea and in soil and marine natural resources.

Article 2. Application

This Agreement shall apply to all investments made by investors of one party in the territory of the other party before and after its entry into force, in accordance with the laws in force in the latter, with the exception of investment disputes that may arise before the entry into force of this Agreement.

Article 3. Promotion and Protection of Investments

1. Each Party shall promote and encourage, as far as possible investments by investors of the other party in its territory and admit such investments in accordance with the law in force in the Territory.

The extension, modification or conversion of an investment made in accordance with the law in vi-gueur in the host country shall be treated as a new investment.

2. Investments made by investors of one party in the territory of the other party, in accordance with the law in force in the Territory, enjoy protection and security in the territory of the latter and fair and equitable treatment.

3. The parties will subject to the management, maintenance, use, enjoyment or disposal of investments in its territory by investors of the other party to unjustifiable measures, arbitrary or discriminatory.

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

1. Investments made by investors of one Party in the territory of the other Party, as well as their income, shall be subject to fair and equitable treatment no less favourable than that accorded by the latter Party to investments of its own investors or of investors of third States.

2. Each Party shall accord to investors of the other Party, with respect to the management, maintenance, use, usufruct or disposal of investments made in its territory, fair and equitable treatment no less favorable than that accorded to its own investors or to investors of non-Parties.

3. The provisions of this article do not involve the concession of preference or privilege by investors of a party to the other party that may be granted under:

a) Participation in the areas of customs unions, free trade, existing or future common market and other similar international

agreements, including other forms of economic cooperation to which either party is or may become a party; or

b) An agreement for the avoidance of double taxation or any arrangement of a fiscal nature.

Article 5. Application of other Rules

1. This Agreement shall not preclude the right of each party to apply the relevant provisions of its tax legislation to taxpayers who are not in identical situations as regards their place of residence.

2. If, beyond the provisions of this Agreement, the provisions of the legislation of one of the Parties or obligations under international law in force or to come into force between the two Parties establish a general or special regime which confers on investments made by investors of the other Party treatment more favourable than that provided for in this Agreement, the more favourable treatment shall prevail.

3. Each Party shall observe any obligation it has assumed with regard to investments in its territory by investors of the other party.

Article 6. Transfers

1. Each of the two Parties, in accordance with the laws in force, shall guarantee to the investors of the other Party the free transfer of funds related to investments and in particular, though not exclusively:

a) The principal and additional amounts necessary for the maintenance or increase investment;

b) Income referred to in paragraph 3 of article 1 of this Agreement;

c) The amounts required for the repayment of loans and use the amortisation regularly contracted associated with an investment;

d) Proceeds resulting from the alienation or the total or partial liquidation of investments;

e) Compensation and other payments provided for in articles 7 and 8 of this Agreement;

f) Any preliminary payment that may have been made on behalf of an investor in accordance with article 9 of this Agreement;

g) The remuneration of foreign workers allowed to work in connection with an investment in the territory of the other party.

2. The transfers referred to in this article shall be effected without delay in the convertible currency at the rate of exchange applicable on the date of transfer and without prejudice to any tax obligations of investors.

For the purposes of this article, the transfer shall be effected without delay when the latter is made within the period normally required for the completion of necessary formalities, which shall in no case exceed three months from the date of submission of the request for transfer satisfied in good and due form.

Article 7. Expropriation and Compensation

1. Investments made by investors of either party in the territory of the other party shall not be expropriated or nationalized, subject to measures having effect equivalent to expropriation or nationalization (now known as expropriation) except for reasons of public purpose in accordance with due process, on a non-discriminatory basis and against a prompt, effective and adequate compensation.

2. The compensation shall correspond to the market value of the expropriated investment immediately before the expropriation is taken or publicly available, whichever is earlier date.

3. The compensation shall be paid without delay and be freely transferable in convertible currencies. In the event of late payment, it shall include at the market interest rate from the date of request until the date of payment.

4. The investor whose investments are expropriated shall have the right, in accordance with the law in force in the territory of the Party where the goods have been expropriated, to prompt review of its case by a judicial authority or any other competent authority of that Party and to the valuation of its investment in accordance with the principles set out in this article.

Article 8. Compensation for Losses

Investors of one Party who suffer losses in investments made in the territory of the other Party as a result of war or other armed conflict, revolution, state of national emergency or other similar events, shall be accorded by that Party treatment unfavourable to that accorded by that Party to investments of its own investors or of investors of third States with respect to restitution, compensation or other relief. The treatment most favourable to the investor shall be chosen.

Article 9. Principle of Subrogation

IIf one of the Parties or any other entity designated by it makes payments to one of its investors under a contract of insurance or guarantee against non-commercial risks for an investment made in the territory of the other Party, the first Party shall be subrogated to the rights and actions of that investor exercisable on the same terms and conditions as the original holder. Such subrogation shall enable the first Party or the entity designated by it to be the direct beneficiary of any payment for compensation to which the original investor would be entitled.

Article 10. Disputes between the Parties

1. Disputes between the parties relating to the interpretation or application of this Agreement shall, as far as possible, be settled through negotiations between the two Parties through diplomatic channels.

2. If the parties do not reach an agreement within six months after the beginning of negotiations, the dispute shall be submitted, at the request of either party to an arbitral tribunal.

3. The arbitral tribunal shall be constituted ad hoc as follows:

a) Each Party shall appoint one arbitrator and these two arbitrators shall appoint a third arbitrator who is a national of a third State to be appointed as Chairman of the Tribunal by both parties;

b) The arbitrators shall be appointed within three months and the Chairman within five months from the date on which either party shall be communicated to the other party of its intention to submit the dispute to an arbitral tribunal.

c) The Chairman of the arbitral tribunal shall be a resortissant of a State with which both contracting parties maintain diplomatic relations.

4. If the periods specified in paragraph 3 of this article have not been made, either Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make the necessary appointments.

5. If the President of the International Court of Justice is prevented or if he is a national of either party, the appointment shall be dealt with by the Vice-President of the International Court of Justice. If he is prevented or if he is a national of either party, the appointment shall be the responsibility of the member of the Court next in authority immediately, provided that such Member shall not be a national of one of the Parties.

6. The arbitral tribunal shall decide on the basis of the provisions of the present Agreement and other agreements in force between the parties and the rules and principles of international law.

7. The arbitral tribunal shall be taken by a majority of votes. The decisions shall be final and binding on both parties.

8. Each Party shall bear the costs of its own arbitrator and its representation in the proceedings of the arbitral tribunal. The costs of the Chairman and the remaining costs shall be borne in equal parts by the parties.

9. The arbitral tribunal may make a different regulation concerning costs. With respect to all other areas, the arbitral tribunal shall define its own rules of procedure.

Article 11. Disputes between a Party and an Investor of the other Party

1. Any dispute between an investor of one Party and the other Contracting Party in connection with an investment shall be settled amicably through negotiations.

2. If the dispute cannot be resolved in accordance with the provisions of paragraph 1 of this Article within six months from the date of the written notification, either party may refer the dispute:

a) The competent courts of the Party in whose territory the investment is made; or

b) The International Centre for the Settlement of Investment Disputes (ICSID) for settlement by conciliation or arbitration

under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, opened for signature at Washington on 18 March 1965; or

c) An ad hoc arbitration tribunal established in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).

3. The decision to refer the dispute to one of the procedures referred to in the preceding paragraph shall be irreversible.

4. The arbitral tribunal shall decide on the basis of the national law of the Contracting Party, Party to the dispute in whose territory the investment was made, including the rules relating to conflicts of law, the provisions of this Agreement, the terms of the specific agreements to be concluded in connection with investment as well as the principles of international law.

5. The award shall be final and binding upon both parties and shall not be subject to any use either beyond those provided by domestic legislation in the case of subparagraph (a) or by the Convention referred to in subparagraph (b) or by the rules referred to in subparagraph (c) of paragraph 2 of this article. Each party commits itself to execute the award in accordance with the law in force in its territory.

Article 12. Consultations

The representatives of the two parties may, whenever necessary, conduct consultations on any matter relating to the interpretation and application of this Agreement. These consultations will be carried out on a proposal by one of the two parties. the date and venue of these consultations be settled through diplomatic channels.

Article 13. Entry Into Force

This Agreement shall enter into force 30 days after receipt of the last notification in writing and through diplomatic channels, specifying that the procedures required for the bringing into force of international agreements, under the domestic law of each of the parties have been completed.

Article 14. Renewal and Termination

1. This Agreement shall remain in force for a period of ten years and may be renewed tacitly renewed.

2. After the initial period of 10 years, each Party may terminate this Agreement by giving notice in writing and through diplomatic channels of 12 months.

3. In the event of termination, the provisions of articles 1 to 12 above shall apply for a period of ten years for investments made prior to the termination of the Agreement.

Article 15. Revocation

This Agreement supersedes, from the date of its entry into force, the Agreement between the Portuguese Republic and the Kingdom of Morocco concerning the reciprocal promotion and protection of investments, signed in Rabat on 18 October 1988.

Done in two originals in Rabat on 17 April 2007 in Portuguese, Arabic and French languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Portuguese Republic:

Manuel Pinhno

Minister of the Economy and Innovation.

For the Kingdom of Morocco:

Mohamed Benaissa

Minister for Foreign Affairs and Cooperation.