AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE REPUBLIC OF EQUATORIAL GUINEA ON THE MUTUAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the People's Republic of China and the Republic of Equatorial Guinea (hereinafter referred to as the "Contracting Parties"),

Intending to create favourable conditions for investments of investors of one State in the territory of the other Contracting Party;

Recognizing that the reciprocal encouragement, promotion and protection of such investments will be conductive to stimulating business initiative of the investors and will increase prosperity in both States;

Desiring to intensify the economic cooperation of both States on the basis of equality, and mutual benefits;

Have agreed as follows

Article 1. Definitions

For the purpose of this Agreement,

1. The term "investment" means every kind of asset invested by investors of one Contracting Party in accordance with the laws and regulations of the other Contracting Party in the territory of the latter, including, in particular, though not exclusively, includes:

(a) movable, immovable property and other property rights such as mortgages and liens;

(b) shares, bonds, stock and any other kinds of participation in companies;

(c) claims to money or to any other performance having an economic value;

(d) intellectual property, especially the copyrights, patents, trade marks, trade names, technological processes, know-how and good will;

(e) concessions conferred by law or contracts, including concessions to search for, cultivate, refine or exploit natural resources.

2. The term "investor" means:

(a) natural persons who have nationality of either Contracting Party in accordance with its laws.

(b) legal entities, include companies, associations, partnerships or organizations, with or without legal personality incorporated or constituted under the laws and regulations of either Contracting Party.

3. The term "returns" means amounts yielded by investments such as profits, dividends, interests, capital gains, royalties, fees or other legitimate income.

Article 2. Promotion and Protection of Investments

1. Each Contracting Party shall encourage investors of the other Party to make investments in its territory and shall admit such investments in accordance wit its laws and regulations.

Each Contracting Party shall grant assistance in and provide facilities for obtaining visa and working permit to nationals of

the other Contracting Party to work in the territory of the former in connection with activities associated with such investments.

2. Investments of investors of either Contracting Party shall at all times be accorded fair and equitable treatment in the territory of the other Contracting Party.

3. Without prejudice to its laws and regulations, neither Contracting Party shall in any way impair by unjustified or discriminatory measures the management, maintenance, use, enjoyment or disposal of investments in its territory of investors of the other Contracting Party.

Article 3. Treatment of Investments

1. Investments of investors of either Contracting Party shall at all times be accorded fair and equitable treatment in the territory of the other Contracting Party.

2. The treatment and protection accorded by either Contracting Party within the territory to investors of the other Contracting Party with respect to investments, returns and business activities in connection with investment shall be no less favorable than that accorded to its own investors.

3. The treatment and protection accorded by either Contracting Party within the territory to investors of the other Contracting Party with respect to investments, returns and business activities in connection with investment shall be no less favorable than that accorded to investors of any third State.

4. The provisions of Paragraph 3 of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from:

(a) customs union, free trade area and economic union;

(b) any international agreement or arrangement relating wholly or mainly to taxation; or

(c) any arrangement for facilitating small scale frontier trade in border areas.

Article 4. Expropriation

1. Neither Contracting Party shall expropriate, nationalize or take similar measures (hereinafter referred to as "expropriation") against investments of investors of the other Contracting Party in its territory, unless the following conditions are met:

a) for the public interests;

b) under domestic legal procedure;

c) without discrimination;

d) against compensation.

2. The compensation mentioned in Paragraph 1 of this Article shall be equivalent to the value of the expropriated investment immediately before the expropriation is taken or the impending expropriation becomes public knowledge. The value shall be determined in accordance with generally recognized principles of valuation. The compensation shall include interest at a normal commercial rate from the date of expropriation until the date of payment. The compensation shall be made without delay, be effectively realizable and freely transferable.

Article 5. Compensation for Damages and Losses

Investors of one Contracting Party who suffer losses in respect of their investment in the territory of the other Contracting Party owing to war, a state of national emergency, insurrection, revolution, riot or other similar events, shall be accorded by the latter Contracting Party, if it takes relevant measures such as restitution, indemnification, compensation or other valuable consideration, treatment no less favorable than that accorded to investors of its own or a third State, whichever is more favorable to the investor concerned.

Article 6. Transfers

1. Each Contracting Party shall, subject to its laws and regulations, guarantee investors of the other Contracting Party the

free transfer of their investments and returns held in the territory of the other Contracting Party, including:

a) profits, dividends, interests and other legitimate income;

b) proceeds, including capital gains, accruing from the total or partial sale, alienation or liquidation of an investment;

c) payments made pursuant to a loan agreement in connection with investment;

d) royalties in Paragraph 1 (d) of Article 1;

e) payments of technical assistance or technical service fees and management fees;

f) payments in connection with projects on contract;

g) earnings of nationals of the other Contracting Party who work in connection with an investment in the territory of the other Contracting Party;

2. The provisions in Paragraph 1 of this Article shall not effect the free transfer of compensation accorded to investors in accordance with Article 4.

3. The transfer mentioned above shall be effected in any convertible currency at the prevailing market exchange rate of the Contracting Party accepting the investment on the date of transfer.

Article 7. Subrogation

If one Contracting Party or its designated agency makes a payment to its own investors under a guarantee or a contract of insurance against non-commercial risks it has accorded in respect of an investment made in the territory of the other Contracting Party, the latter Contracting Party shall recognize:

(a) the assignment, whether under the law or pursuant to a legal transaction in the former Contracting Party, of any rights or claims by the investors to the former Contracting Party or to its designated agency, as well as,

(b) that the former Contracting Party or its designated agency is entitled by virtue of subrogation to exercise the rights and enforce the claims of that investor and assume the obligations related to the investment.

Article 8. Settlement of Disputes between Contracting Parties

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, as far as possible, be settled by consultation through diplomatic channel.

2. If a dispute cannot thus be settled within six months, it shall, upon the request of either Contracting Party, be submitted to an ad hoc arbitral tribunal.

3. Such tribunal comprises of three arbitrators. Within two months from the date on which either Contracting Party receives the written notice requesting for arbitration from the other Contracting Party, each Contracting Party shall appoint one arbitrator. Those two arbitrators shall, within three months from the date of their appointment, together select a third arbitrator who is a national of a third State which has diplomatic relations with both Contracting Parties. The third arbitrator shall be appointed by the two Contracting Parties as Chairman of the arbitral tribunal.

4. If the arbitral tribunal has not been constituted within five months from the date of the receipt of the written notice requesting for arbitration, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to appoint the arbitrator(s) who has or have not yet been appointed. If the President is a national of either Contracting Party or is otherwise prevented from discharging the said function, the next most senior member of the International Court of Justice who is not a national of either Contracting Party shall be invited to make the necessary appointment(s).

5. The arbitral tribunal shall determine its own procedure. The arbitral tribunal shall reach its award in accordance with the provisions of this Agreement and the principles of international law accepted by both Contracting Parties.

6. The tribunal shall reach its award by a majority of votes. Such award shall be final and binding on both Contracting Parties. The ad hoc arbitral tribunal shall, upon the request of either Contracting Party, explain the reasons of its award.

7. Each Contracting Party shall bear the costs of its appointed arbitrator and of its representation in arbitral proceedings. The relevant costs of the Chairman and the tribunal shall be bone in equal parts by the Contracting Parties.

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

1. Any dispute between an investor of one Contracting Party and the other Contracting Party in connection with an investment in the territory of the other Contracting Party shall, as far as possible, be settled amicably through negations between the parties to the dispute.

2. If any dispute between an investor of one Contracting Party and the other Contracting Party cannot be thus settled within six months of the date when the request for the settlement has been submitted, the investor shall be entitled to submit the case, at his choice, for settlement to:

(a) the competent court of the Contracting Party which is the party to the dispute; or

(b) the International Centre for Settlement of Investment Disputes (ICSID) having regard to the applicable a provisions of the Convention on the Settlement of Investment Disputes between States and Nationals of other States opened for signature at Washington D.C. on 18 March 1965. Provided that the Contracting Party involved in the dispute may require the investor concerned to exhaust the domestic administrative review procedures specified by the laws and regulations of that Contracting Party before submission of the dispute to the aforementioned arbitration procedure.

Once the investor has submitted the dispute to the competent court of the Contracting Party which is the party to the dispute or the ICSID, the choice of procedure shall be final.

3. The arbitral tribunal shall reach its award in accordance with the provisions of this Agreement, conflicts laws and the principles of international law recognized by both Contracting Parties.

4. Such award shall be final and biding on both Contracting Parties. The ad hoc arbitral tribunal shall, upon the request of either Contracting Parties, explain the reasons of its award. Both Contracting Parties shall commit themselves to the enforcement of the award.

5. Each Contracting Party shall bear the cost of its appointed arbitrator and of its representation in arbitral proceedings. The relevant costs of the Chairman and the tribunal shall be borne in equal parts by the Contracting

Article 10. Other Obligations

1. If the treatment to be accorded by one Contracting Party in accordance with its laws and regulations to investments or activities associated with such investments of investors of the other Contracting Party is more favourable than the treatment provided for in this Agreement, the favourable treatment shall not be effected by this Agreement.

2. Either Contracting Party shall be scrupulously abided by commitments concerning investments made to investors of the other Contracting Party.

Article 11. Application

This Agreement shall apply to investments made in the territory of either Contracting Party in accordance with its legislation or rules or regulations by investors of the other Contracting Party prior to as well as after the entry into force of this Agreement. The Agreement shall not apply to disputes arising before the entry into force of this Agreement.

Article 12. Consultations

1. Both Contracting Parties shall hold meetings from time to time for the purpose of:

(a) reviewing the implementation of this Agreement;

(b) exchanging legal information and investment opportunities;

(c) resolving disputes arising out of investments;

(d) forwarding proposals on promotion of investment;

(e) studying other issues in connection with investment.

2. Where either Contracting Party requests consultation on any matter of Paragraph 1 of this Article, the other Contracting Party shall give prompt response and the consultation be held alternatively in Beijing and Malabo.

Article 13. Entry Into Force

1. This Agreement shall enter into force on the first day of the following month after the date on which both Contracting Parties notify each other in writing that their respective internal legal procedures necessary for the entry into force of this Agreement have been fulfilled and remain in force for a period of ten years. This Agreement shall continue in force if either Contracting Party fails to give a written notice to the other Contracting Party to terminate the Agreement one year before the expiration of initial ten years period.

2. With respect to investments made prior to the date of termination of this Agreement, the provisions of Article 1 to 12 shall continue to be effective for a further period of ten years from such date of termination.

3. This Agreement may be amended in accordance with written agreement with both Contracting Parties involved. Any amendment shall not come into effect unless the same procedure for the entry force of this Agreement is fulfilled.

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

Done in duplicate, at Beijing on October 20, 2005 in Chinese and Spanish languages, both texts being equally authentic.

For the Government of the People's Republic of China

For the Government of the Republic of Equatorial Guinea