AGREEMENT BETWEEN THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE GOVERNMENT OF THE LAO PEOPLE'S DEMOCRATIC REPUBLIC FOR THE PROMOTION AND THE PROTECTION OF INVESTMENTS

The Government of the Kingdom of Thailand and the Government of the Lao People's Democratic Republic, hereinafter called "Contracting Parties"

Recognising that the good neighbourly cooperation in the fields of economics and trade through investments will promote progressive development for the well being of the people of both States.

Desiring to create favourable conditions for greater economic cooperation between them and in particular, for the investment of capital by nationals and companies of one State in the territory of the other State.

Recognising that the reciprocal encouragement and protection of such investment of capital and the investment under international agreement will be conducive to the stimulation of individual business initiative and will increase prosperity in both States:

Have agreed as follows:

Article 1.

For the purposes of this Agreement:

1. The term "national" shall mean any person who possesses nationality under the law in force in each of the Contracting Parties.

2. The term "companies" shall mean juridical persons incorporated or constituted under the Law in force in the territory of either Contracting Party whether or not with limited liability and whether or not for pecuniary profit.

3. The term "investments" shall mean every kind of asset, including in particular, but not exclusively;

(a) Movable and immovable property and any other property rights such a mortgages, liens or pledaes;

(b) Shares, stock and debentures of companies wherever incorporated or interests in the property of such companies;

(c) Claims to money or to any performance under contract having a financial value;

(d) Patents, trade-marks, trade-name and good will;

(e) Business concession conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources.

4. The term "returns" shall mean the amounts yielded by an investment and in particular, though not exclusively, shall include profit, interest, capital gains, dividends, royalties or fees;

5. The term "territory" shall mean territory over which Contracting Party has sovereignty and/or jurisdiction.

Article 2.

(1) The benefits of this Agreement shall apply only in cases where the investment of capital by the nationals and companies of one Contracting Party in the territory of the other Contracting Party has been specifically approved in writing by the latter Contracting Party.

(2) Nationals and companies of either Contracting Party shall apply for such approval in respect of any investment of capital whether made before or after entry into force of this Agreement.

Article 3.

(1) Each Contracting Party shall, having regard to its laws, plans and policies, encourage and facilitate the investment of capital in its territory by the nationals and companies of the other Contracting Party.

(2) Investments of nationals or companies of one Contracting Party in the territory of the other Contracting Party shall enjoy the most constant protection and security under the laws of the latter Contracting Party.

Article 4.

(1)

(a) Investments of nationals or companies of one Contracting Party in the territory of the other Contracting Party, and also the returns therefrom, shall receive treatment which is fair and equitable and not less favourable than that accorded in respect of the investments and returns of the nationals and companies of the latter Contracting Party or of any third State;

(b) Each Contracting Party shall in its territory accord to nationals or companies of the other Contracting Party as regards the management, use, enjoyment or disposal of their investments treatment which is fair and equitable in conformity with the principle of international Law and not less favourable than that which it accords to its own nationals and companies or to the nationals and companies of any third State;

(c) All the provisions of this Agreement relative to the grant of treatment not less favourable than that accorded to the nationals or companies of any third state shall be interpreted as meaning that such treatment shall be accorded immediately and unconditionally;

(d) Wherever this Agreement makes alternative provision for the grant of national treatment or of treatment not less favourable than that accorded to the nationals or companies of any third State in respect of any matter, the option as between these alternatives shall rest with the Contracting Party beneficiary in each particular case.

(2) Each Contracting Party shall observe any obligation, additional to those specified in this agreement, into which it may have entered with regard to investments of nationals or companies of other Contracting Party.

Article 5.

The provisions of this Agreement relative to the grant of treatment not less favourable than that accorded to the nationals or companies of either Contracting Party or of any third State shall not be construed so as to oblige one Contracting Party to extend to the nationals or companies of the other Contracting Party the benefit of any treatment, preference or privilege which may be extended by the former Contracting Party by virtue of:

(a) The formation or extension of a customs union or a free trade area or a common external tariff area or a monetary union or a regional association for economic cooperation; or

(b) The adoption of an agreement designed to lead to the formation or extension of such a union or area within a reasonable length of time; or

(c) Any arrangement with a third country or countries in the same geographical region designed to promote regional cooperation in the economic, social, labour, industrial or monetary fields within the framework of specific projects; or

(d) The grant to a particular person or company of the status of a "promoted person" under the laws of Thailand or the Lao People's Democratic Republic on the promotion of investment; or

(e) Any international agreement or arrangement, or any domestic legislation, relating wholly or mainly to taxation.

Article 6.

(1)

(a) In any case where investments of national or company of a Contracting Party are subjected, directly or indirectly, to any measure of expropriation, the national or company concerned shall be accorded in the territory of the other Contracting

Party fair and equitable treatment in relation to any such measure. No such measure shall be taken except for public purposes and against payment of compensation. Such compensation shall be adequate, shall be effectively realisable, shall be made without delay and shall, subject to the provisions of paragraph (2) of Article 7, be freely transferable;

(b) The legality of any expropriation and the amount and method of payment of compensation shall be subject to review by due process of law.

(2) Where a Contracting Party expropriates assets of a company which is incorporated or constituted under the law in force in any part of its territory, and in which a national or company of the other Contracting Party owns shares, it shall ensure that the provisions of paragraph (1) of this Article are applied to the extent necessary to guarantee compensation as specified therein to such national or company of the other Contracting Party who is the owner of those shares.

(3) Where investments of national or company of one Contracting Party in the territory of the other Contracting Party suffer loss owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot in the territory of the other Contracting Party, the national or company concerned shall be accorded treatment, as regards restitution, indemnification, compensation or other settlement, not less favourable than would be accorded in the same circumstances to a national or company of the other Contracting Party or to a national or company of any third State.

(4) Without prejudice to the foregoing provisions of this Article, the nationals and companies of one Contracting Party shall, in respect of any matter dealt with therein, be accorded in the territory of the other Contracting Party treatment not less favourable than that accorded to the nationals and companies of the latter Contracting Party or of any third State.

Article 7.

(1) Each of the Contracting Party in the territory where the investments has been dealt by the nationals or companies of the other Contracting Party, shall grant to the nationals or companies, after the performance of tax obligation, a free transfer of:

(a) Dividends, profits and other current income;

(b) Fees from intangible rights;

(c) Instalment payment of loans;

(d) Partial or total clearance of investments;

(e) Compensation paid in pursuance of Article 6

(f) Normal earning of nationals of the other Contracting Party in connection with an investment in the territory of the former Contracting Party.

Any transfer under this Agreement shall be made in freely convertible currency at the prevailing official rate of exchange on the date of transfer.

(2) In cases where large amounts of compensation have been paid in pursuance of Article 6 the Contracting Party concerned may require the transfer thereof to be effected in reasonable instalments.

Article 8.

(1) If either Contracting Party or an agency designated by it makes payment to a national or company under a policy of insurance covering non-commercial risks which it has given in respect of any investment of capital or any part thereof in the territory of the other Contracting Party the latter Contracting Party shall recognise:

(a) The assignment, whether under law or pursuant to a legal transaction, of any right of claim from such a national or company to the former Contracting Party or its designated agency and;

(b) The former Contracting Party or its designated agency is entitled by virtue of subrogation to exercise the rights and enforce the claims of such a national or company.

(2) The former Contracting Party or its designated agency shall, accordingly, be entitled to assert, if it so desires, any such right or claim to the same extent as its predecessor in title.

(3) If the former Contracting Party acquires amounts in the lawful currency of the other Contracting Party or credits thereof by virtue of an assignment under subparagraph (a) of paragraph (1), of this Article such amounts and credits shall be freely available to the former Contracting Party for the purpose of meeting its expenditure in the territory of the latter Contracting

Party. The transfer outside the territory of the amounts and credits shall be subject to the provisions of paragraph (2) of Article 7.

Article 9.

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall, if possible, be settled through consultation or negotiation.

(2) If a dispute between the Contracting Parties cannot thus be settled within six months, it shall at the request of either Contracting Party, be submitted to an arbitral tribunal.

(3) Such an arbitral tribunal shall be constituted for each individual case as follows:

(a) Each Contracting Party shall appoint one member, and these two members shall then select a national of a third State who on approval by the two Contracting Parties shall be appointed Chairman of the tribunal;

(b) The said members shall be appointed within three months, and the Chairman within four months, from the date on which either Contracting Party shall have informed the other Contracting party that it proposes to submit the dispute to an arbitral tribunal.

(4) If within the periods specified in paragraph (3) of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other relevant agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of either Contracting Party or if he is otherwise prevented from discharging the said function, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a national of either Contracting Party or if he too is prevented from discharging the said function, the member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointments:-

(5)

(a) The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be binding on both parties;

(b) Subject to the power of the arbitral tribunal to give a different ruling concerning costs, the cost of its own member and of its representation in the arbitral proceedings shall be borne by each Contracting Party and the cost of the Chairman and the remaining costs shall be borne in equal parts by the two Contracting Parties;

(c) In all respects other than those specified in subparagraphs (a) and (b) of this paragraph, the arbitral tribunal shall determine its own procedure.

Article 10.

This Agreement shall be subject to ratification and the instruments of ratification shall be exchanged as soon as possible. The Agreement shall come into force thirty days after the date of the exchange of instruments of ratification and shall remain in force for an initial period of ten years. It shall thereafter continue in force indefinitely, subject to the right of either Contracting Party to terminate it by twelve months prior notice in writing to the other Contracting Party, which notice may be given at any time after the expiry of the ninth year. However, with respect to an investment approved while the Agreement is in force its provisions shall continue to have effect for a period of ten years from the date of its termination.

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

Done in duplicate at Bangkok, this 22nd day of August, in the Two Thousand Five Hundred and Thirty-Three year of the Buddhist era, in the Thai, Lao and English languages, all three texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Government of the Kingdom of Thailand

Sub-Lietenant Prapas Limpabandhu

Deputy Minister of Foreign Affairs

For the Government of the Lao People's Democratic Republic

Thongloun Sisoulith

Deputy Minister of Foreign Affairs