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

The Republic of El Salvador and the Republic of Costa Rica, hereinafter "the Contracting Parties";

DESIRING to intensify economic cooperation for the mutual benefit of both States;

WITH THE INTENTION to create and maintain conditions favorable to the investments of investors of one Contracting Party in the territory of the other;

RECOGNIZING the need to promote and protect foreign investments with a view to promoting the economic prosperity of both States; and,

WITH THE INTENTION to contribute in the effort to subscribe an Investment and Services Agreement at the Central American level;

HAVE AGREED AS FOLLOWS:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investor" means for each of the Contracting Parties, the following subjects that have made investments in the territory of the other Contracting Party in accordance with this Agreement:

a) The natural persons who, in accordance with the legislation of that Contracting Party, are considered nationals of the same;

b) Legal persons, including societes, corporations, commercial associations or any other entity constituted according with the legislation of that Contracting Party, that have their domicile, as well as their effective economic activities, in the territory of the said Contracting Party; regardless of whether your activity has a profit or otherwise.

2. The term "Investment" refers to all kinds of tangible and intangible assets related to it, that an investor of one Contracting Party has invested in the territory of the other Contracting Party in accordance with the legislation of the latter, and will understand, in particular, although not exclusively:

a) Property rights over movable and immovable property, as well as all other real rights, such as easements, mortgages, usufructs, pledges;

b) Shares, social quotas and any other type of economic participation in companies;

c) Credit rights or any other benefit that has an economic value;

d) Intellectual property rights, including copyrights and related rights and industrial property rights, including among the latter, patents, technical processes, trademarks or trademarks, trade names, industrial designs, know-how, company name and right of key;

e) Concessions granted by law, by an administrative act or by virtue of a contract, including concessions to explore, cultivate, extract or exploit natural resources.

3. "Territory" includes:

a) With respect to Costa Rica: In addition to the terrestrial, maritime and air space under its sovereignty, the exclusive economic zone and the continental shelf that extends beyond the limit of its territorial sea, over which it has, in accordance

with international law , jurisdiction and sovereign rights for the purposes of exploitation, exploitation and preservation of natural resources.

b) With respect to El Salvador: The terrestrial, maritime and air space that is under its sovereignty and jurisdiction, in accordance with its respective legislation and International Law.

4. The term "rents", means those amounts that come from an investment, such as shares in profits, dividends, interest, license fees and other remunerations.

Article 2. Area of Application

This agreement shall apply to investments made, before or after its entry into force, by investors of a Contracting Party, in accordance with the local legislation of the other Contracting Party, in the territory of the latter. However, it will not apply to divergence or controversies that have arisen prior to its validity or are directly related to events that occurred before its entry into force. Likewise, it will not affect acquired economic rights or legal situations consolidated before the date of entry into force of the Agreement.

Article 3. Promotion, Admission and Protection of Investments

1. Each Contracting Party, subject to its general policy in the field of foreign investment, shall encourage in its territory the investments of investors of the other Contracting Party and shall admit them in accordance with its legislation.

2. Each Contracting Party shall protect within its territory the investments made in accordance with its laws and regulations by investors of the other Contracting Party and shall not impede the administration, maintenance, use, usufruct, extension, sale and liquidation of said investments through measures unjustified or discriminatory.

Article 4. Treatment of Investments

1. Each Contracting Party shall guarantee fair and equitable treatment within its territory to the investments of the investors of the other Contracting Party and shall ensure that the exercise of the rights hereby recognized shall not be hindered by an act of the Administration.

Each Contracting Party shall grant, in accordance with its national legislation, to the investments of the investors of the other Contracting Party, made in its territory, a treatment no less favorable than that accorded to the investments of its own investors.

2. Each Contracting Party shall grant to investments of investors of the other Contracting Party, made in its territory, treatment no less favorable than that accorded to investments of investors of a third State, if the latter treatment is more favorable.

Between national treatment and most-favored-nation treatment, each Contracting Party shall apply the treatment that is most favorable to the investment of the investor, at the discretion of the latter.

This Treatment shall not extend, however, to the privileges that a Contracting Party grants to investors of a third State, by virtue of its association or current or future participation in a free trade zone, customs union, common market, economic union. and monetary or other institutions of similar economic integration.

3. The treatment granted in accordance with this article shall not extend to deductions, tax exemptions or other analogous privileges granted by any of the Contracting Parties to the investment of investors from third countries under an agreement to avoid double taxation or of any other agreement regarding taxation.

Article 5. Free Transfer

1. Each Contracting Party shall allow, without delay, the investors of the other Contracting Party to carry out the transfer of funds related to investments in freely convertible currency, in particular, but not exclusively:

a) Interest, dividends, income, profits and other income;

b) Depreciation of foreign loans related to an investment;

c) The capital or the proceeds of the sale or total or partial liquidation of an investment;

d) The funds resulting from the settlement, from a controversy and compensations in accordance with Article 6.

2. Transfers will be made according to the exchange rate prevailing in the currency market at the date of transfer, according to the law of the Contracting Party that has admitted the investment.

Article 6. Expropriation and Compensation

1. Neither Contracting Party shall adopt any measure that has the effect, directly or indirectly, of the nationalization or expropriation of investments of investors of the other Contracting Party, or any other measure having equivalent effects, unless the following conditions are met :

a) The measures are adopted for reasons of public utility or social interest and in accordance with the Law;

b) The measures are not discriminatory;

c) The measures are accompanied by provisions for the payment of timely, adequate and effective compensation, in accordance with the respective constitutional orders.

2. The compensation will be equivalent to the fair market value that the expropriated investment had immediately before the expropriation measure was adopted or before the imminence of the measure was public knowledge, whichever happens sooner. The indemnity will include the payment of interest calculated from the day of dispossession of the property expropriated until the day of payment. These interests will be calculated on the basis of the passive commercial rate of the National Banking System of the Party where the expropriation was carried out. The compensation shall be paid without delay, in convertible currency and shall be effectively realizable and freely transferable.

3. The legality of the nationalization, expropriation or any other measure having an equivalent effect and the amount of compensation may be claimed in ordinary judicial proceedings before the courts of each Contracting Party.

4. Nothing in this Article shall affect the power of the government of a Contracting Party to decide whether or not to negotiate with the other Contracting Party, or with third States, quantitative restrictions on its exports, or its power to define the allocation of quotas. eventually negotiated through the mechanisms and criteria it deems relevant. Consequently, any dispute will be resolved according to the commercial agreements applicable between the Contracting Parties. Nothing in this Article shall be used as a basis for an investor to claim that the effects derived from the distribution or administration of a quota represent a de facto expropriation, provided that said mechanisms are in accordance with the principles of national treatment and treatment. Most-favored-nation status established in Article 4 of this Agreement.

Article 7. Indemnification for Losses

Investors of each Contracting Party whose investments in the territory of the other Contracting Party suffer losses due to war or any other armed conflict; to a national state of emergency; civil disturbances or other similar events in the territory of the other Contracting Party, shall receive from the latter with respect to reparation, compensation, compensation or other arrangement, in relation to its investment, a treatment no less favorable than that granted by the other Contracting Party to national investors or of any third State.

Article 8. Subrogation

When a Contracting Party or a body authorized by it has granted an insurance contract or some other financial guarantee against non-commercial risks, with respect to any investment of one of its investors in the territory of the other Contracting Party, the latter shall recognize the rights of the first Contracting Party to subrogate in the rights of the investor, when it has made a payment under the said contract or guarantee.

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

1. Disputes that arise within the scope of this Agreement, between one of the Contracting Parties and an investor of the other Contracting Party that has made investments in the territory of the first shall, as far as possible, be solved by means of friendly consultations. With this objective, the investor will notify in writing its disagreement to the Contracting Party receiving the investment.

2. If, through such consultations, a solution is not reached within three months from the date of the written notification mentioned in the preceding paragraph, the investor may remit the dispute to:

a) the competent courts of the Contracting Party in whose territory the investment was made; or

b) International arbitration of the International Center for Settlement of Investment Disputes (ICSID), created by the Convention on Settlement of Investment Disputes between States and Nationals of other States, signed in Washington on March 18, 1965. To this end , each Contracting Party gives its advance and irrevocable consent so that any difference can be admitted to this arbitration.

3. The arbitral tribunal shall decide on the basis of:

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 was made, including the rules relating to conflicts of laws and the terms of any agreements concluded in relation to the investment; and

c) universally recognized rules and principles of International Law.

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

5. For the purposes of this article, any juridical person that has been constituted in accordance with the legislation of one of the Contracting Parties and whose actions, prior to the appearance of the controversy, are mostly held by investors of the other Contracting Party, will be treated, pursuant to Article 252 (b) of the aforementioned Washington Convention, as a legal person of the other Contracting Party.

6. Arbitral awards shall be final and binding for the Parties to the dispute and shall be executed in accordance with the domestic law of the Contracting Party in whose territory the investment was made.

7. The Contracting Parties shall refrain from dealing, through diplomatic channels, with matters related to disputes submitted to judicial process or international arbitration, in accordance with the provisions of this article, until the corresponding proceedings are concluded, except in the case of that the other party to the dispute has not complied with the judicial decision or the decision of the Arbitral Tribunal, in the terms established in the respective judgment or decision.

Article 10. Settlement of Disputes between the Contracting Parties

1. The differences that arise between the Contracting Parties regarding the interpretation and application of this Agreement, shall be resolved, as far as possible, through friendly negotiations. For this purpose, the Contracting Party considered to be affected shall notify the other Contracting Party in writing of its disagreement.

2. If an understanding is not reached within six months from the date of notification of the dispute, either Contracting Party may submit it to an Ad-hoc Arbitral Trib0unal, in accordance with the provisions of this Article.

3. The Arbitral Tribunal shall be composed of three members and shall be constituted as follows: Within a period of two months counted from the date of notification of the request for arbitration. Each Contracting Party shall appoint an arbitrator. Those two arbitrators, within the term of thirty days counted from the appointment of the last of them, will elect a third member who must be a national of a third State, who will preside over the Court. The appointment of the President must be approved by the Contracting Parties within a period of thirty days, counted from the date of his nomination.

4. If, within the periods established in paragraph 2 of this article, the designation has not been made, or the required approval has not been granted, either of the Contracting Parties may request the President of the International Court of Justice to make the designation. If the President of the International Court of Justice is prevented from performing this function or if he is a national of either Contracting Party, the Vice-President must make the appointment and if the latter is unable to do so or is a national of either Contracting Party. , the Judge of the Court who follows him in seniority and who is not a national of either of the Contracting Parties, shall make the appointment.

5. The President of the Tribunal shall be a national of a third State with which both Contracting Parties maintain diplomatic relations.

6. The Arbitral Tribunal shall decide on the basis of the provisions of this agreement, of the principles of International Law in the matter and of the general principles of Law recognized by the Contracting Parties. The Court will decide by majority vote and determine its own procedural rules.

7.

Each of the Contracting Parties shall bear the expenses of the respective arbitrator, as well as those related to their representation in the arbitration process. The expenses of the President and the other costs of the process shall be met in equal parts by the Contracting Parties, unless they agree otherwise.

8. The decisions of the Arbitral Tribunal shall be final and binding on both Contracting Parties.

Article 11. Consultations

The Contracting Parties shall consult on any matter related to the application or interpretation of this Agreement.

Article 12. Final Provisions

1. The Contracting Parties shall notify each other when the constitutional requirements for the entry into force of this Agreement have been met. The Agreement will become effective thirty days after the date of the last notification.

2. This agreement will remain in force for a period of fifteen years and will be extended afterwards for an indefinite period. After fifteen years, the Agreement may be denounced at any time by each Contracting Party, with a notice of twelve months, communicated through the diplomatic channel. This period of validity is understood to expire for the Contracting Parties, at the moment in which the regional Agreement on investment and services, negotiated in the area of the Central America, enters into force for both countries.

3. With respect to the investments made prior to the date on which the notice of termination of this agreement was made effective, its provisions shall remain in effect for an additional period of fifteen years as of said date.

4. This Agreement shall apply irrespective of whether or not diplomatic relations exist between the two Contracting Parties.

DONE at San José on the twenty-first day of the month of November of the year two thousand and one, in two copies in Spanish, both texts being equally authentic.

María Eugenia de Avila

For the Republic of El Salvador

Roberto Rojas

For the Republic of Costa Rica