AGREEMENT BETWEEN THE REPUBLIC OF COLOMBIA AND THE REPUBLIC OF CHILE FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the Republic of Colombia and the Government of the Republic of Chile, hereinafter referred to as "the Contracting Parties".

Desiring to intensify economic cooperation to the benefit of both Contracting Parties;

Intending to create and maintain favourable conditions for investments of investors of one Contracting Party in the territory of the other party, involving transfers of capital;

Recognizing the need to promote and protect foreign investment with a view to promoting the economic prosperity of both Contracting Parties;

Have agreed as follows:

Article I. Definitions

For the purposes of this Agreement:

1. The term "investor" designates the following subjects who have made investments in the territory of the other Contracting Party in accordance with this Agreement:

a) Natural persons who, according to the law of that Contracting Party, are considered to be nationals of the same;

b) Legal entities, including companies, corporations, business associations or any other entity constituted under the laws of that Contracting Party, having their seat and undertake economic activities in accordance with their objects, in the territory of that Contracting Party;

2. The term "investment" means every kind of assets or rights related thereto, provided that it is carried out in accordance with the laws and regulations of the Contracting Party in whose territory they are undertaken, and shall include in particular, though not exclusively:

a) Movable and immovable property, as well as all other rights in rem, such as mortgages, liens, pledges and usufructs;

b) Shares and social quotas and any other kind of participation in companies;

c) Rights of claim or any other performance having economic value;

d) Intellectual Property Rights, including copyrights and industrial property rights, such as patents, technical processes, trade marks or trade names, trademarks, industrial designs, know-how and name;

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

Any change in the form in which assets are invested shall not affect their character as investments provided that such change is made in accordance with the legislation of the Contracting Party in whose territory the investment has been made.

3. The term "territory" includes, in addition to the land, sea and air space under the sovereignty of each Contracting Party, marine and submarine areas over which they exercise sovereign rights and jurisdiction in accordance with their respective laws and International Law.

Article II. Scope of Application

This Agreement shall apply to the investments made before or after its entry into force by investors of one Contracting Party, in accordance with the laws of the other Contracting Party in the territory of the latter. However, it shall not apply to differences or disputes which have arisen prior to its validity or disputes on facts prior to its Entry into Force, even if their effects persist thereafter.

Article III. Admission, Promotion and Protection of Investments

Each Contracting Party shall, subject to its general policy in the field of investment, encourage investments in its territory of investors of the other Contracting Party and shall admit in accordance with its laws and regulations. Each Contracting Party shall protect within its territory investments made in accordance with its laws and regulations by investors of the other Contracting Party and shall not hinder the management, maintenance, use, enjoyment, extension and sale and liquidation of such investments by unreasonable or discriminatory measures.

Article IV. Treatment of Investments

1. Each Contracting Party shall ensure fair and equitable treatment within its territory to investments of investors of the other Contracting Party and shall ensure that the exercise of the rights recognized shall not be hindered in practice.

2. Each Contracting Party shall accord to investments of investors of the other Contracting Party in its territory treatment no less favourable than that accorded to its own of investments or investors to investors of any third country, whichever is more favourable treatment.

3. The provisions of this Agreement relating to the grant of not less favourable treatment than that accorded to 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 nationals or companies of the other Contracting Party the benefit of any treatment, preference or privilege resulting from the establishment of a free trade area, customs union, economic union, a common market or other form of regional economic organization or any international agreement designed to facilitate frontier trade, existing or future or becomes a Party which is one of the Contracting Parties.

Article V. Free Transfer

1. Each Contracting Party after the fulfillment of requirements under the domestic laws, shall without delay to investors of the other Contracting Party to make the transfer of funds related to investments in a freely convertible currency, in particular, though not exclusively:

a) Income, dividends, profits and other income;

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

c) The proceeds of the settlement of a dispute; and compensation pursuant to articles 6 and 7.

Transfers shall be made in accordance with the rate of exchange prevailing on the date of transfer, according to the Law of the Contracting Party which has admitted the investment.

Article VI. Expropriation and Compensation

1. Neither Contracting Party shall take any measures depriving, directly or indirectly, an investor of the other Contracting party of an investment unless the following conditions are met:

a) The measures are taken under the law, for reasons of public purpose social interest or national interest, in accordance with their respective constitutions;

b) The measures are not discriminatory; and

c) The measures are accompanied by provisions for the payment of prompt, effective and adequate compensation.

2. The compensation shall be based on the market value of the affected investments have on the day immediately preceding the date on which the measure was taken or has become public knowledge. Where it is difficult to determine the value, the compensation shall be determined in accordance with the internationally accepted methods of valuation, and may take into account such factors as the capital invested, repatriated capital depreciation, until that date, replacement value and other relevant factors. Any unreasonable delay in payment of compensation shall be recognised at the market interest rate on the value of such compensation, from the date on which the measure becomes effective, until the date of

payment.

3. The legality of the measure and the amount of compensation shall seek before the judicial authorities of the Contracting Party taking the action.

Article VII. Compensation for Damage or Loss

Investors of each Contracting Party whose investments in the territory of the other contracting party are losses due to war or armed conflict, a national state of emergency, civil disturbance or other similar events in the territory of the other Contracting Party, shall receive from this latter, as regards restitution, indemnification, compensation or other settlement, treatment no less favourable than that accorded to its own investors or of any third State.

Article VIII. Subrogation

1. If a Contracting Party or an agency authorised by it has granted an insurance or other financial guarantee against non-commercial risks with regard to an investment by one of its investors in the territory of the other Contracting Party, the latter shall recognize the rights of the first Contracting Party to the rights of subrogation of the investor, when it has made a payment under such insurance or guarantee.

2. If a Contracting Party has paid to its investor and has taken by its rights and benefits, the investor shall not claim such rights and benefits to the other Contracting Party, except with the express authorization of the first Contracting Party.

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

1. Disputes arising under this agreement between one Contracting Party and an investor of the other Contracting Party which has made investments in the territory of the first, shall, as far as possible, be settled through consultations.

2. If consultations fail to produce an solution within three months from the date of request for settlement, the investor may submit the dispute;

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

b) An ad hoc tribunal which, unless the parties to the dispute agree otherwise, shall be established under the Arbitration Rules of the United Nations Commission on International Trade Law;

c) To international arbitration of the International Centre for Settlement of Investment Disputes (ICSID), established by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, opened for signature at Washington on 18 March 1965.

3. Each Contracting Party consents to advance and irrevocably any difference that may be subject to one of the arbitral tribunals mentioned in subparagraphs (b) and (c) above.

4. Once the investor has submitted the dispute to the competent court of the Contracting Party in whose territory the investment has been made or to one of the arbitral tribunals referred to above, the choice of one or other of the procedure shall be final.

5. The arbitral awards shall be final and binding on the parties to the dispute and shall be executed in accordance with the domestic law of the Contracting Party in whose territory the investment has been made.

6. The Contracting Parties shall seek, through diplomatic channels matters related to disputes submitted to court proceedings or international arbitration in accordance with the provisions of this article, until the relevant processes are completed, except where the other party in the dispute has not complied with the court decision or the decision of the arbitral tribunal, under the terms established in the respective decision or award.

Article X. Settlement of Disputes between the Contracting Parties

1. Disputes arising between the Contracting Parties concerning the interpretation and application of this Agreement shall be settled as far as possible through direct negotiations.

2. If an agreement cannot be achieved within a period of six months from the date of notification of the dispute, either Contracting Party may submit it to an ad hoc arbitral tribunal in accordance with the provisions of this article.

3. The arbitral tribunal shall consist of three members and shall be constituted in the following manner: within two months after the date of notification of the request for arbitration, each Contracting Party shall appoint an arbitrator. Those two arbitrators within thirty days after the appointment of the last one, shall select a third member who shall be a national of a third State, who shall chair the Tribunal. The designation of the Chairman shall be approved by the Contracting Parties within thirty days after the date of his nomination.

4. If within the periods specified in paragraph 3 of this article, the appointment has not been made or required the approval has been granted, either Contracting Party may request the President of the International Court of Justice to make the appointment. If the President of the International Court of Justice is prevented from carrying out the said function or if he is a national of either Contracting Party, the Vice-President shall make the appointment, and if the latter is prevented or is a national of either of the Contracting Parties, the judge of the Court who in seniority who is not a national of one 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 and the principles of international law and applicable general principles of law recognized by the contracting parties. The Tribunal shall decide by a majority of votes and shall determine its own procedural rules.

7. Each Contracting Party shall bear the costs of the arbitrator, as well as those relating to its representation in the arbitral proceedings. The cost of the Chairman and the remaining costs of the proceedings shall be removed in equal parts by the contracting parties unless they agree otherwise.

8. The decisions of the Tribunal shall be final and binding on both contracting parties.

Article XI. Consultations

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

Article XII. Final Provisions

1. The Contracting Parties shall notify each other the fulfilment of their constitutional requirements for the Entry into Force of this Agreement. The Agreement shall enter into force 60 days after the date of the last notification.

2. This Agreement shall remain in force for a period of ten years and thereafter shall be extended for an indefinite period. After ten years, this Agreement may be denounced at any time by either Contracting Party, with notice of twelve months notice through diplomatic channels.

3. With respect to investments made prior to the date that was made effective notice of termination of this agreement its provisions shall remain in force for a further period of ten years from that date.

Done at Cartagena de Indias, Colombia, twenty-two (22) days of January 2000, in duplicate in the same vein, in Spanish, both texts being equally authentic.

For the Government of the Republic of Colombia,

Martha Lucía Ramírez de Rincón.

Minister of Foreign Trade.

For the Government of the Republic of Chile,

Juan Gabriel Valdés Soublette

Minister of Foreign Affairs.

At the time of signature of the Agreement between the Government of the Republic of Colombia and the Government of the Republic of Chile for the Promotion and Reciprocal Protection of Investments, the Contracting Parties have agreed on the

following provisions that are an integral part of this Agreement.

Ad Article I

Notwithstanding paragraph 2 of this Article, the loans are not considered investment.

Ad Article III

1. Nothing in this Agreement shall oblige either Contracting Party to protect investments made with capital or assets that according to the legislation of each Contracting Party shall determine from criminal activities.

2. The provisions of this Agreement shall not apply to matters of taxation.

Ad Article V

1. The invested capital may be transferred only after one year after its entry into the territory of the Contracting Party, except that it provides for more favourable treatment.

2. A transfer shall be deemed to be made "without delay" when it has been made within the period normally necessary for the fulfilment of transfer formalities required by the legislation of the Contracting Party concerned. This period shall not exceed the generally accepted in the practices of international commercial banks.

3. Nothing in this Agreement shall be construed as preventing a Contracting Party from maintaining or adopting measures that restrict transfers where the party faces serious difficulties in their balance of payments, or threat thereof, provided that such restrictions are consistent with the Articles of Agreement of the International Monetary Fund, its Annexes and amendments ratified by each party.

Done at Cartagena de Indias, Colombia, twenty-two (22) days of January 2000, in duplicate in the same vein, in Spanish, both texts being equally authentic.