AGREEMENT ON THE PROMOTION AND PROTECTION OF INVESTMENT BETWEEN THE REPUBLIC OF ANGOLA AND THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE

The Republic of Angola and the Democratic Republic of São Tomé and Príncipe;

Motivated by the desire to intensify economic cooperation between the two States;

Desiring to create favorable conditions for investments by nationals or companies of one State in the territory of the other State;

Recognizing that the promotion of such investments through government action may serve to stimulate private economic initiative and enhance the well-being of both peoples;

The Government of the Republic of Angola and the Government of the Democratic Republic of Sio TomÃ© and Principe hereby agree as follows:

Article 1. PROMOTION AND ADMISSION

Both Contracting Parties shall, to the extent possible, promote investments by nationals or companies of the other Contracting Party in their territory and shall admit such investments in accordance with their laws and regulations.

Article 2. DEFINITIONS

For the purposes of this Agreement:

1) The term "investment" includes all types of property and rights, in particular:

a) Ownership of movable and immovable property, as well as any other rights in rem of enjoyment or security, whether or not inherent in the ownership of such property, including mortgages and liens;

b) Shares and other forms of participation in a company's capital and/or in economic interests arising from its activities;

c) Credit claims relating to cash or any other payments of economic value;

d) Copyrights, industrial property rights (patents, technical processes, trademarks, trade names, and industrial designs), know-how, business name, establishment name, and clientele (goodwill);

e) Private and public concessions, including concessions for ' prospecting, exploration, extraction, and exploitation of ! natural resources;

2) The term "income" refers to the amounts generated by an investment during a given period, such as profits, dividends, interest, royalties, or other forms of remuneration related to the investment, including any payments for technical assistance or management;

If the returns on an investment, as defined above, are reinvested, the returns resulting from such reinvestment shall also be considered returns on the initial investment;

3) The term "liquidation of an investment" means the termination of the investment, carried out in accordance with the procedures established by the laws in force in the country where the investment in question was made;

4) The term "nationals" refers to:

a) With respect to the Democratic Republic of São Tomé and Príncipe - Santomese nationals, as defined in the Santomese

law governing nationality;

b) With respect to the Republic of Angola - Angolans, as defined by the nationality law in force in the Republic of Angola.

For the purposes of this paragraph, possession of a passport issued to a national of one of the Contracting Parties and duly issued by the respective authorities shall be accepted as a presumption of the holder's nationality.

5) The term "Companies" refers to any legal entity, including commercial companies or other companies or associations, with or without legal personality, that has its headquarters, is incorporated, and operates in accordance with the law of either Contracting Party.

6) The term "territory" includes not only the territory of each Contracting Party, as defined in its respective fundamental laws, but also the exclusive economic zones and continental shelves of each Contracting Party, provided that international law permits the Contracting Party in question to exercise sovereignty or jurisdiction over such areas.

Article 3. PROTECTION

Both Contracting Parties shall grant full protection and security to investments made in their territory by nationals and companies of the other Contracting Party and shall not hinder, through unjustified or discriminatory measures, the management, use, enjoyment, exploitation, expansion, sale, and, where applicable, liquidation of such investments.

Article 4. TREATMENT

(1) Both Contracting Parties shall ensure fair and equitable treatment within their territory for investments made by nationals or companies of the other Contracting Party.

(2) Neither Contracting Party shall accord to investments in its territory that are owned or controlled by nationals or companies of the other Contracting Party treatment less favorable than that accorded to investments of its own nationals or companies or to investments of nationals and companies of third States.

(3) Neither Contracting Party shall accord to nationals or companies of the other Contracting Party, with respect to the activities they carry out within its territory in connection with investments made there, treatment less favorable than that accorded to its own nationals and companies or to nationals and companies of third States.

(4) For the purposes of this Article, "less favorable treatment" shall be understood to include, in particular, any discrimination with respect to the acquisition of raw and auxiliary materials, energy and fuels, or other means of production and operation of any kind, or with respect to the sale of products within the country and abroad, as well as any other measures having similar effects.

Article 5. EXCEPTIONS

The provisions of the preceding article do not apply to:

(a) Any privileges or benefits that one of the Contracting Parties grants to nationals or companies of third States by virtue of their being associated with or being members of a customs or economic union, a common market, or a free trade area, or as a result of a double taxation agreement or other agreements on tax matters.

b) Any tax advantages, exemptions, or reductions that, under the tax laws of each Contracting Party, are granted only to individuals or corporations resident in its territory.

Article 6. APPLICATION

Within the framework of their domestic legal provisions, both Contracting Parties shall give favorable consideration to applications for entry into and residence in their territory, as well as for work permits or authorization to engage in gainful employment, submitted to them by nationals of the other Contracting Party in connection with an investment.

Article 7. TRANSFERS

Both Contracting Parties shall guarantee to the nationals and companies of the other Contracting Party the transfer of all amounts related to investments made under this Agreement, namely:

(a) Capital and any additional amounts intended for the maintenance or expansion of the investment;

(b) income, as defined in Article 2(2) of this Agreement;

(c) Amounts necessary for the service, repayment, and amortization of loans;

(d) Royalties or other remuneration relating to the rights referred to in Article 2(1)(d) of this Agreement;

(e) Proceeds resulting from the liquidation or total or partial disposal of the investment;

(f) Indemnities and other payments provided for in Article 100 of this Agreement;

(g) Any payments that must be made pursuant to the subrogation provided for in Article 119 of this Agreement;

Article 8. EXCHANGE RATES

The transfers referred to in the preceding article shall be made at the exchange rate in effect on the date of such transfer;

Article 9. EXPROPRIATION / NATIONALIZATION

1) Investments made by nationals and companies of one Contracting Party in the territory of another Contracting Party may not be expropriated, nationalized, or subjected to other measures having effects equivalent to expropriation or nationalization, except for reasons of public utility and subject to compensation. Compensation shall be paid without delay, shall accrue interest at the customary bank rate until the date of its settlement, and shall be freely transferable. Appropriate measures shall be taken to determine the amount and form of payment of the compensation no later than the time of the expropriation, nationalization, or equivalent measure. The legality of the expropriation, nationalization, or equivalent measure and the amount of compensation must be verifiable in ordinary judicial proceedings.

2) Compensation shall also be payable, under the terms of the preceding paragraph, in the event of State intervention in the enterprise that is the subject of the investment in a manner that significantly and permanently compromises its economic situation.

3) Nationals or companies of one Contracting Party who suffer investment losses in the territory of the other Contracting Party as a result of war or other armed conflicts, revolution, a national state of emergency, or an uprising shall not be treated less favorably by that Contracting Party - with respect to restrictions, compensation, indemnification, or other remedies - than its own nationals or companies. Such payments shall be freely transferable.

(4) With respect to the matters governed by this Article, nationals and companies of either Contracting Party shall enjoy most-favored-nation treatment in the territory of the other Contracting Party.

Article 10. SUBROGATION

In the event that one of the Contracting Parties makes any payments to any of the following: or companies by virtue of a guarantee provided for an investment made in the territory of the other Contracting Party, it shall thereby be subrogated to the the rights of the national or company in question, and may exercise them under the same terms and conditions as the original holder.

Article 11. MORE FAVORABLE CONDITIONS

1) If the laws in force in the territory of one of the Contracting Parties, or the obligations arising from international treaties that exist or may come into force in the future between the Contracting Parties to this Agreement, result in a general regulation or special regulation granting investors from the other Contracting Party or companies of the other Contracting Party more favorable treatment than that provided for in in this Agreement, such regulation shall prevail to the extent that it is more favorable.

2) Any conditions more favorable than those resulting from this Agreement that have been agreed upon by either Contracting Party Contractual agreements between nationals or companies of the other Contracting Party shall remain valid and shall not be affected by the entry into force of this Agreement.

Article 12. PRIOR INVESTMENTS

The provisions of this Agreement shall apply equally to investments made by nationals or companies of one Contracting Party, within the territory of the other Contracting Party in accordance with the relevant legal provisions and which took

place prior to the entry into force of this Agreement.

Article 13. DISPUTES REGARDING THE INTERPRETATION OR APPLICATION OF THIS AGREEMENT

1) Disputes arising between the Contracting Parties regarding the interpretation or application of this Agreement shall be \ settled, to the extent possible, through negotiations between the Governments of the two Contracting Parties.

2) If a dispute cannot be settled in this manner, it shall be submitted to an arbitral tribunal at the request of either Contracting Party.

3) The arbitral tribunal shall consist of three members: two 4 members and a Chairperson. Each Contracting Party shall : appoint one member by mutual agreement; these two members shall then designate a national of a third State to serve as Chairperson, who shall be appointed by the Governments of both Contracting Parties.

The members shall be appointed within two months, and the chairperson within three months, in both cases counting from the date on which one of the Contracting Parties notified the other that it wishes to submit the dispute to an arbitral tribunal.

4) If the deadlines set forth in the preceding paragraph are not met, either Contracting Party may, in the absence of an agreement, request the President of the International Court of Justice to make the necessary appointments. If the President of the International Court of Justice is a national of either Contracting Party or is otherwise unable to perform this duty, the Vice President shall make the appointments. If the Vice President is also a national of one of the Contracting Parties or is also prevented from serving for any other reason, the appointments shall be made by the next-ranking member of the Court who is not a national of either Contracting Party.

5) Both Contracting Parties shall bear the expenses of the President, as well as all other expenses, in equal shares. The arbitral tribunal may adopt different rules regarding expenses and shall establish its own rules of procedure.

6) In the event that both Contracting Parties become parties to the Convention on the Settlement of Disputes between States and Nationals of Other States Concerning Investments, of March 18, 1967, no recourse may be had, pursuant to Article 27, paragraph 1, of said Convention, to the arbitral tribunal provided for above, since there exists between the national or company of one of the Contracting Parties and the other Contracting Party an agreement referred to in Article 250 of the same Convention. This is without prejudice to the possibility of recourse to the aforementioned tribunal in the event of non-compliance with a decision of an arbitral tribunal established under the terms of Article 27 of the said Convention and in the event of the transfer of rights by way of subrogation pursuant to Article 119 of this Agreement.

Article 14. DISPUTES CONCERNING INVESTMENTS

(1) Disputes arising between one of the Contracting Parties and a national or company of the other Contracting Party concerning investments shall, to the extent possible, be settled amicably between the disputing parties.

(2) If the dispute cannot be settled within six months from the date on which one of the disputing parties raised it, it shall be submitted, at the request of the national or company concerned, to the relevant authority of its State, which, if necessary, shall initiate the procedure prescribed in the preceding article for the resolution of disputes.

Article 15. CONTINUATION IN THE EVENT OF CONFLICTS

This Agreement shall remain in force even in the event of conflicts between the Contracting Parties, without prejudice to the right to adopt provisional measures, provided that such measures are permitted under the general rules of international law. Such provisional measures shall be set aside no later than the time of the effective cessation of the conflict, regardless of whether diplomatic relations exist or not

Article 16. ENTRY INTO FORCE, RENEWAL, TERMINATION

(1) Each Contracting Party shall notify the other Contracting Party in writing of the completion of the constitutional formalities required for the entry into force of this Agreement.

(2) This Agreement shall enter into force on the date of receipt of the last of such notifications and shall remain in force for a period of 10 years. Upon the expiration of this period, it shall be deemed extended for successive periods of 5 years unless one of the Contracting Parties denounces it in writing at any time, with 12 months' prior notice.

3) With respect to investments made up to the time of termination of this Agreement, the provisions of Articles 10 through 150 shall remain in effect for a period of 10 years from the date of such termination.

Done at Luanda, on January 31, 1995, in two copies in the Portuguese language, both texts being equally authentic.

FOR THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE

FOR THE REPUBLIC OF ANGOLA