Economic and Technical Cooperation Agreement between the Government of the Kingdom of the Netherlands and the Government of the Republic of Senegal

The Government of the Kingdom of the Netherlands and the Government of the Republic of Senegal, moved by the desire to strengthen their traditional ties of friendship, to develop and intensify their economic relations on the basis of equality and mutual benefit,

Have agreed on the following provisions:

Article 1.

1. The Contracting Parties undertake to cooperate and to provide each other, in accordance with their legislation and insofar as they are able, with reciprocal assistance for the development of their countries, particularly in the economic and technical fields.

2. On the basis of and within the framework of the present agreement, it is intended to conclude special agreements in the field of technical cooperation.

Article 2.

1. In order to achieve the objectives of this agreement, the Government of the Kingdom of the Netherlands is prepared to grant to Dutch enterprises, upon request, authorizations for the supply of capital goods to Senegalese state and private enterprises on an installment basis.

2. For its part, the Government of the Republic of Senegal will provide the necessary guarantees for the transfer, at each due date, of the sums due to the Dutch creditors, in accordance with the legislation in force in Senegal.

Article 3.

Investments as well as property, rights and interests belonging to natural and legal persons who are nationals of one of the Contracting Parties in the territory of the other shall enjoy fair and non-discriminatory treatment at least equal to that accorded by each party to its nationals.

Article 4.

Each Contracting Party undertakes to authorize, using the options offered by the regulations enacted in implementation of its current legislation or any other more favorable legislation which may be enacted in the future

- the transfer of real net profits, interest, dividends and royalties accruing to natural or legal persons who are nationals of the other Party

- the transfer of the proceeds from the total or partial liquidation of investments approved by the country in which they are made

- the transfer of an adequate part of the proceeds of the work of nationals of the other Party authorized to carry on their activity in its territory.

Article 5.

In the event of a Party expropriating or nationalizing property, rights or interests belonging to natural or legal persons who

are nationals of the other Party, or taking any other measure of dispossession against them, except in the case of seizure for infringement of fiscal, customs or economic legislation of such a nature as to lead to a judicial decision, it shall provide for the payment of effective and adequate compensation, in accordance with international law. The amount of such compensation, which shall be fixed at the time of the expropriation, nationalization or dispossession, shall be paid without undue delay to the rightful owner. The amount of such compensation shall be transferred without delay. However, the measures of expropriation, nationalization or dispossession shall not be discriminatory or contrary to any specific undertaking.

Article 6.

1. If a dispute should arise between the Contracting Parties concerning the interpretation or execution of the provisions of this Agreement, and if this dispute cannot be settled satisfactorily within six months by the joint commission provided for in Article 12 of this Agreement, it shall be submitted, at the request of either Party, to an arbitration tribunal of three members. Each Party shall appoint one arbitrator. The two arbitrators appointed shall appoint a substitute arbitrator who shall be a national of a third State.

2. If one of the Parties has not appointed its arbitrator and has not complied with the invitation of the other Party to do so within two months, the arbitrator shall be appointed, at the request of that Party, by the President of the International Court of Justice.

3. If the two arbitrators cannot agree within two months of their appointment on the choice of the umpire, the umpire shall be appointed by the President of the International Court of Justice at the request of one of the Parties.

4. If in the cases provided for in paragraphs 2 and 3 of this article the President of the International Court of Justice is unable to act or if he is a national of one of the Parties, the appointments shall be made by the Vice-President. If the latter is unable to act or if he is a national of one of the Parties, the appointments shall be made by the oldest member of the Court who is not a national of either Party.

5. The court shall decide on the basis of respect for the law. Before rendering its award, it may, in any state of the dispute, propose an amicable settlement of the dispute for the approval of the parties.

6. If the parties agree, the tribunal shall rule ex-aequo et bono.

7. Unless the Parties agree otherwise, the Tribunal shall determine its own procedure.

8. The decisions of the tribunal, taken by a majority of the arbitrators, shall be binding on the parties.

Article 7.

Each Contracting Party shall accord in its territory to the nationals and industrial and commercial enterprises of the other Contracting Party the same treatment as that accorded to its own nationals and industrial and commercial enterprises with respect to the granting and maintenance of rights to patents, trademarks, trade names, trade labels and any form of industrial property.

It is expressly understood that the Republic of Senegal has acceded to the Libreville Agreement and consequently entrusts the management of the granting and maintenance of industrial property rights to the African and Malagasy Industrial Property Office, the headquarters of which is in Yaoundé, and that all the rules laid down by that Office are ipso facto applicable in the territory of the Republic of Senegal.

Article 8.

Each of the Contracting Parties shall refrain from taking discriminatory measures which could be detrimental to the maritime navigation of the other Contracting Party and adversely affect the choice of flag contrary to the principles of free competition. Exceptions to this rule shall be, on the one hand, fishing and cabotage in those parts of the Kingdom of the Netherlands which are situated outside Europe and whose own laws shall be exclusively applicable in this matter, and, on the other hand, the special advantages which the Republic of Senegal may grant to fishing, cabotage and port or coastal towing.

Each Contracting Party shall ensure in its ports to vessels flying the flag of the other Contracting Party the same treatment as that granted to its own vessels. This provision shall apply to customs formalities, the collection of duties and taxes in ports, free access to and use of ports, and any facilities granted to navigation and economic activities in respect of vessels, their crews, passengers and goods carried by them. This includes, in particular, the allocation of berths at the quays and the

facilities granted for loading and unloading.

Article 9.

In view of the interest of both countries in commercial exchanges in the field of air transport, the two Governments agree to study this problem at a later date within the framework of a bilateral agreement and in the most liberal spirit possible.

Article 10.

The nationals and industrial and commercial enterprises of one of the Contracting Parties shall not be subjected in the territory of the other Contracting Party to taxes, duties and charges other or higher than those imposed on the nationals and industrial and commercial enterprises of the latter Party.

Nationals and industrial and commercial enterprises of one of the Contracting Parties who are liable to taxation in the territory of the other Contracting Party shall enjoy the same exemptions, deductions and reductions in taxes, duties or charges of any kind as nationals and industrial and commercial enterprises of the latter Party.

Each Contracting Party reserves the right to grant tax advantages on the basis of agreements on the abolition of double taxation.

Article 11.

Each Contracting Party undertakes to encourage and facilitate on its territory and within the limits imposed by its legislation, the organization of exhibitions and economic and commercial events by the other Contracting Party.

Article 12.

A joint commission composed of representatives of the two Governments shall meet at the request of one of the Contracting Parties to examine any difficulties which may arise in the application of this agreement. It shall be empowered to submit to the Contracting Parties any proposal likely to promote the application of this agreement. Such proposals shall not be binding until approved by both Governments.

This joint commission shall meet alternately in Dakar and in The Hague.

Article 13.

This agreement shall be ratified and the instruments of ratification shall be exchanged in Dakar as soon as possible.

Article 14.

As regards the Kingdom of the Netherlands, this agreement shall apply to the Kingdom in Europe and, unless the instrument of ratification of the Kingdom of the Netherlands provides otherwise, to Surinam and the Netherlands Antilles.

Article 15.

This agreement shall enter into force on the day of the exchange of the instruments of ratification.

It shall be valid for a period of one year from the date of its entry into force and shall be considered renewed from year to year by tacit agreement, if neither of the Contracting Parties denounces it in writing not later than three months before the expiry of the period of validity.

Termination of this Agreement shall not affect the validity of contracts already entered into and guarantees already provided under this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Agreement.

DONE at Dakar, this 12th day of June 1965, in two originals, in the French language.

For the Government of the Kingdom of the Netherlands:

(s.) JEAN VAN CAMPEN

For the Government of the Republic of Senegal:

(s.) DOUDOU THIAM