AGREEMETN BETWEEN THE GOVERNMENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA AND THE GOVERNMENT OF THE REPUBLIC OF TUNISIA FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

The government of the Federal Democratic Republic of Ethiopia of the one part, and the government of the Republic of Tunisia of the other part, hereinafter referred to as the "Contracting Parties":

Desiring to strengthen their economic relations and intensify cooperation between the two countries in order to encourage their development;

Convinced that a reciprocal protection of investment by virtue of a bilateral agreement is likely to stimulate private economic initiative and to increase prosperity in both countries;

Conscious of the necessity of according fair and equitable treatment to the investments of nationals of one of the Contracting Parties in the territory of the other Contracting Party;

Have agreed as follows:

Article 1. Definitions

For the purpose of this agreement:

a) "Investments" mean every kind of rights, properties and assets constituted or recognized in the territory of one Contracting Party according to its laws and regulations and in particular, though not exclusively, includes: (i) Movable and immovable property and any other rights such as mortgages, pledges and similar rights;

(ii) Shares in, stock and debentures of a company and any other form of participation in a company;

(iii) Claims to money or to any performance having an economic value;

(iv) Intellectual and industrial property rights, technical processes, and goodwill;

(v) Business concessions conferred by law or under contract related to investment, including concessions to search for, extract, exploit or develop natural resources.

Any alternation in the form in which investments are realized shall not affect their character as investment, on condition that this alternation shall be in accordance with laws and regulations of the concerned Contracting Party.

b) "Returns" means the amounts yielded by an investment as profits, interests, dividends, royalties or fees;

c) "Investors" means, in respect of each Contracting Party: (i) Physical persons who are nationals of this Contracting Party in accordance with its legislation and made investments in the territory of the other Contracting Party.

(ii) Legal persons constituted under laws and regulations of the Contracting Party and which made investments in the territory of the other Contracting Party.

d) "Territory" means: (i) In respect of the Federal Democratic Republic of Ethiopia: the territory, which constitutes the Federal Democratic Republic of Ethiopia and recognized under international law.

(ii) In respect of the Republic of Tunisia: the territory under its sovereignty including adjacent seas and submarine area and other seaside spaces over which the Contracting Party practice, in accordance with international law, sovereign rights or jurisdiction.

e) "Associated activities" includes the organization, control, operation, maintenance, and disposition of companies, branches, agencies, offices, factories or other facilities for the conduct of business; the making, performance and enforcement of contracts; the acquisition, use, protection and disposition of property of all kinds.

Article 2. Promotion and Protection of Investment

1. Each Contracting Party shall encourage investments of investors of the other Contracting Party in its territory, and shall admit such investments in accordance with its laws and regulations.

2. Investments of investors of either Contracting Party shall be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Contracting party. Each Contracting Party undertakes to ensure that the management, use, enjoyment or disposal, in its territory, of investments of investors of the other Contracting Party shall not be impaired by unreasonable or discriminatory measures.

Article 3. National Treatment and Most-favoured-nation Provisions

1. Neither Contracting Party shall in its territory subject investments of investors of the other Contracting Party to treatment less favourable than that which it accords to investments of its own investors or to investments of investors of any third state, whichever is the most favourable.

2. Neither Contracting Party shall in its territory subject investors of the other Contracting Party, as regards associated activities of their investments, to treatment less favourable than that which it accords to its own investors or to investors of any third state, whichever is the most favourable.

3. This treatment shall not be extended to privileges and advantages that one of the Contracting Party accords to investors of a third state:

a) By virtue of its participation or association in a customs union, a common market, a free trade area or any other form of regional economic organization;

b) Relating to an agreement on taxation.

Article 4. Compensation for Losses

Investors of one Contracting Party whose investments in the territory of the other Contracting party suffer losses owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection, riot or other events having similar effect in the territory of the latter Contracting Party shall be accorded by this latter Contracting Party as regards restitution, indemnification, compensation or other settlement, a treatment not less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third state, whichever is the most favourable.

Article 5. Expropriation

Investments of investors of one Contracting Party shall not be expropriated or nationalized or subjected to similar measures in the territory of the other Contracting Party unless the following conditions are met:

a) These measures shall be taken for public purpose or interest and in the form prescribed by law,

b) These measures shall not be discriminatory, and

c) These measures shall be accompanied by payments of prompt, adequate and effective compensation. Such compensation shall amount to the market value of the investment expropriated immediately before knowledge, shall be made without delay, be effectively realizable and be freely transferable in freely convertible currency.

The compensation shall include an amount to compensate losses for any delay in payment that may occur from the date of expropriation until the date of payment provided that the delay of payment is caused by the Contracting Party 2. The provisions of the paragraph 1 of this article will be applicable to the returns provided by investments.

Article 6. Repatriation of Investment and Returns

1. Each Contracting Party shall permit as regards investments of investors of the other Contracting Party the transfer of, in particular though not exclusively:

a) Profits, interests, dividends and royalties or fees.

b) Funds in repayment of loans regularly contracted.

c) Proceeds from the sale or liquidation of all or any part of an investment.

d) Compensations pursuant to Article 5.

e) Earnings of nationals of the other Contracting Party authorized to work in its territory in which the investment have been made, subject to the laws and regulations of the Contracting Party host to the investment.

2. The transfer will be made without undue delay into a convertible currency, at the official rate of exchange applicable at the date of transfer under procedures provided by laws and regulations of the concerned Contracting Party.

Article 7. Settlement of Disputes between Investors and Contracting Parties

1. Any dispute between a Contracting Party and an investor of the other Contracting Party, related to an investment, shall be settled amicably as far as possible.

2. If any dispute between an investor of one Contracting Party and the other Contracting Party continues to exist after a period of six months, the investors shall be entitled to submit the case either to:

a) The competent court of the Contracting Party in the territory of which the investment has been made; or

b) To the International Center for the Settlement of Investment Disputes (ICSID). Related to investments established by the Convention on the Settlement of Investment Disputes between states and nationals of other states done at Washington, March 18, 1965, in the event both Contracting Parties shall have become a party to this Convention; or

c) An arbitrator or international ad hoc arbitral tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).

3. The investor shall be entitled to submit the dispute to ICSID or to UNCITRAL according to the paragraph 2 only if:

a) The dispute has not been submitted by investors for resolution in accordance with any applicable previously agreed dispute settlement procedures, and

b) The investors concerned has not brought the dispute before the courts of justice or administrative tribunals or agencies of competent jurisdiction of the Contracting Party that is a party to the dispute.

4. The Contracting Party which is a party to the dispute shall, at no time whatsoever during the procedures involving investment disputes, assert as a defense its immunity or the fact that the investor has received compensation under an insurance contract covering the whole or part of the incurred damage or loss.

5. The arbitral award shall be final and binding for the parties to the dispute and shall be executed according to national law.

Article 8. Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should, if possible, be settled through the diplomatic channel.

2. If a dispute between the Contracting Parties cannot thus be settled, it shall upon the request of either Contracting Party be submitted to an arbitral tribunal.

3. Such an arbitral tribunal shall be constituted for each individual case in the following way:

a) Within three months of the receipt of the request for arbitration, each Contracting Party shall appoint one member of the tribunal. Those two members shall then select a national of a third State, who on approval by the Contracting Parties shall be appointed Chairman of the tribunal. The Chairman shall be appointed within three months from the date of appointment of the other two members.

b) If within any of the periods specified the necessary appointments have not been made, either Contracting Party may, in the absence of any agreement, invite the President of the International Court of Justice to make any 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.

c) The arbitral tribunal shall apply the provisions of this Agreement, other Agreements concluded between the Contracting Parties, and the procedural standards called for by international law. It shall reach its decision by a majority of votes. The arbitral tribunal determines its own procedure.

d) The decisions of the tribunal are final and binding upon the Contracting Parties to the dispute.

e) Each Contracting Party shall bear the cost of its own member of the tribunal and of its representation in the arbitral proceedings. The cost of the Chairman and the remaining costs shall be borne in equal parts by the Contracting Parties. The tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two Contracting Parties. The tribunal shall determine its own procedure.

Article 9. Subrogation

If one Contracting Party, make a payment under an indemnity given in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognize the assignment to the former Contracting Party of all rights and obligations of the party indemnified and the right of the former Contracting Party to exercise such rights and assume such obligations by virtue of subrogation, in the same conditions as the party indemnified.

Article 10. Applicability of this Agreement

The provisions of this Agreement shall apply to investments made after the date of its entry into force.

Article 11. Entry Into Force

This Agreement shall be ratified and shall enter into force on the date of the later of these notification.

Each Contracting Party shall notify the other Contracting Party in writing that the constitutional conditions required for the entry into force of the present Agreement have been fulfilled.

Article 12. Duration and Termination

This Agreement shall remain in force for a period of ten years. Thereafter it shall continue in force until the expiration of twelve months from the date which either Contracting Party shall have given written notice of termination to the other. Provided that in respect of investments covered by this Agreement, its provisions shall continue in effect with respect to such investments for a period of ten years after the date of termination and without prejudice to the application thereafter of the generally recognized principles of international law.

IN WITNESS WHEREOF, the undersigned duly authorized thereto by their respective governments, have signed this Agreement.

DONE in duplicate in English and Arabic, each text being equally authentic.

FOR THE GOVERNMENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

FOR THE GOVERNMENT OF THE REPUBLIC OF TUNISIA